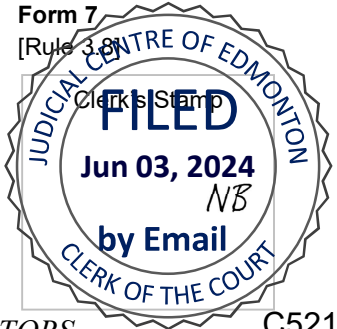


COM June 24, 2024



COURT FILE NUMBER 2401-02664

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, as amended

C52174

AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF LYNX AIR HOLDINGS CORPORATION and 1263343 ALBERTA INC. dba LYNX AIR

APPLICANTS CALGARY AIRPORT AUTHORITY, EDMONTON REGIONAL AIRPORT AUTHORITY, HALIFAX INTERNATIONAL AIRPORT AUTHORITY, VANCOUVER AIRPORT AUTHORITY, WINNIPEG AIRPORT AUTHORITY INC. and GREATER TORONTO AIRPORTS AUTHORITY

RESPONDENT LYNX AIR HOLDINGS CORPORATION and 1263343 ALBERTA INC. dba LYNX AIR

DOCUMENT **AFFIDAVIT IN RESPONSE TO APPLICATIONS RELATING TO TRUST CLAIMS**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **OSLER, HOSKIN & HARCOURT LLP**
Barristers & Solicitors
Brookfield Place, Suite 2700
225 6 Ave SW
Calgary, AB T2P 1N2

Solicitors: Tommy Gelbman / Julie Treleaven
Telephone: (403) 260-7073 / 7048
Email: tgelbman@osler.com / jtreleaven@osler.com
File Number: 1246361

AFFIDAVIT OF MICHAEL WOODWARD

SWORN MAY 31, 2024

I, Michael Woodward, of Calgary, Alberta, **MAKE OATH AND SAY THAT:**

Clerk's Stamp

COURT FILE NUMBER 2401-02664

COURT COURT OF KING'S BENCH OF ALBERTA

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ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, as amended

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AIRPORT AUTHORITY, HALIFAX INTERNATIONAL
AIRPORT AUTHORITY, VANCOUVER AIRPORT
AUTHORITY, WINNIPEG AIRPORT AUTHORITY INC. and
GREATER TORONTO AIRPORTS AUTHORITY

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File Number: 1246361

AFFIDAVIT OF MICHAEL WOODWARD

SWORN MAY 31, 2024

I, Michael Woodward, of Calgary, Alberta, **MAKE OATH AND SAY THAT:**

1. I am the Chief Executive Officer and Director of my personal corporation, which has been contracted to provide the services of Interim Chief Financial Officer to Lynx Air (as that term is defined below), a role I commenced in March 2023. I have since been responsible for all financial-related aspects of Lynx Air's business. Prior to this role, I served as Chief Financial Officer of Campus Energy Partners, an energy infrastructure and supply company, and as a Vice President of BMO Capital Markets. I hold a Bachelor of Commerce in Accounting from the University of British Columbia and have obtained Chartered Accountant and Chartered Financial Analyst designations.

2. As such, I have personal knowledge of the matters to which I depose in this affidavit, except where stated to be based on information and belief, in which case I have stated the source of my information and, in all such cases, I believe such information to be true. In preparing this affidavit, I consulted with Lynx Air's accounting team and advisors, and reviewed relevant documents and information concerning Lynx Air's operations and business and financial affairs.

3. I swear this affidavit in response to applications:

(a) by the Calgary Airport Authority, the Edmonton Regional Airport Authority, the Halifax International Airport Authority, the Vancouver Airport Authority and the Winnipeg Airport Authority Inc. (collectively, the "**Airport Authorities**") for an order seeking, among other things, a declaration stating that the unremitted Airport Improvement Fees ("**AIF**") owed to the Airport Authorities is subject to an express, implied, or constructive trust; and

(b) by the Greater Toronto Airport Authority (the "**GTAA**", and together with the Airport Authorities, the "**Applicants**") for an order seeking, among other things, a

direction for Lynx Air to release \$1,659,580.87 to the GTAA to satisfy trust claims relating to AIF.

A. Lynx Air

4. Lynx Air Holdings Corporation and 1263343 Alberta Inc. dba Lynx Air (collectively, “**Lynx Air**”) are corporations duly incorporated pursuant to the laws of Alberta. Prior to the issuance of the Initial Order (as defined below), Lynx Air operated a Canadian ultra-low-cost carrier (“**ULCC**”) and offered flights to 18 destinations between April 2022 and February 2024.

B. The Relevant Agreements

5. To conduct the ULCC business, Lynx Air entered into certain agreements with each of the Applicants that govern, among other things, the fees payable by Lynx Air for use of each airport. I will describe these agreements below.

(a) The Greater Toronto Airports Authority

6. On January 1, 2023, Lynx Air entered into The Greater Toronto Airports Authority Airport Improvement Fee Agreement (the “**GTAA AIF Agreement**”) with the GTAA in respect of the use of Toronto-Lester B. Pearson International Airport (“**Pearson**”).

7. Among other things, the GTAA AIF Agreement governs the collection, remittance and use of AIF in respect of Pearson. Section 2.1.1(c) of the GTAA AIF Agreement provides:

[...] the AIF collected on behalf of the GTAA by the Air Carrier from the Enplaned Passengers (excluding the amounts collected by the Air Carrier for itself in respect of the Administration Cost) are funds or revenues properly belonging to the GTAA and not the Air Carrier; and (ii) **the AIF collected by the Air Carrier (excluding the amounts collected by the Air Carrier for itself in respect of the Administration Cost) shall be held by**

the Air Carrier in trust for the benefit of the GTAA. Notwithstanding and without prejudice to the fact that the AIF shall be collected and held by the Air Carrier in trust for the GTAA, the Parties each acknowledge that such AIF collected may be commingled in the accounts of the Air Carrier with other funds collected during the normal course of business. [Emphasis added]

8. Section 5 of the GTAA’s Air Carrier – Application for Entry (the “**GTAA Air Carrier Application**”) requires Lynx Air to post an irrevocable letter of credit (“**GTAA Letter of Credit**”) as a security deposit “in an amount calculated by the GTAA Finance Controller for Landing Fees, General Terminal Fees, Apron Fees, Check-In Fees and Airport Improvement Fees.”

9. The amount of the GTAA Letter of Credit was calculated twice annually based on two separate calculations. The first is a 45 day estimate of anticipated aeronautical related fees, and the second is a 30 day estimate of anticipated AIF. The GTAA last calculated the amount to be posted in March 2023 and provided an updated estimate in October 2023. Attached as **Exhibit A** is the calculation prepared by the GTAA, which shows, among other things, the following allocations:

	March		October	
Aeronautical Related Security Deposit Requirement	\$1,596,943	52.08%	\$1,523,397	48.79%
AIF Security Deposit Requirement	\$1,469,170	47.92%	\$1,599,198	51.21%
Total Security Deposit Requirement	\$3,066,113		\$3,122,594	

10. Based on this calculation, Lynx Air posted a \$3,100,000 Irrevocable Standby Letter of Credit (No. 356141), which was backed by a cash deposit held by ATB (also, the “**GTAA Letter of Credit**”).

11. Copies of the GTAA Air Carrier Application and the GTAA AIF Agreement are attached as Exhibits A and E to the Affidavit of Jason Boyd, sworn May 24, 2024.

(b) The MOA

12. As of April 6, 2022, Lynx Air became a signatory to a Memorandum of Agreement, dated May 31, 1999, as amended (the “**MOA**”). The parties to the MOA include (i) the Airport Transport Association of Canada, (ii) Signatory Air Carriers (as defined in the MOA, which includes Lynx Air), and (iii) Airports (as defined in the MOA, which includes the Airport Authorities).

13. The GTAA is the only Applicant that is not a signatory to the MOA.

14. The initial term of the MOA was 20 years, commencing on May 31, 1999 and expiring in 2019. The term was extended by agreements effective January 20, 2004, February 12, 2019, November 28, 2019, April 1, 2020, December 1, 2020, December 1, 2021, December 1, 2022, and December 21, 2023 (the “**2023 Amendment**”). Pursuant to the 2023 Amendment, the MOA will expire on June 30, 2024.

15. A copy of the MOA is attached to each of the affidavits filed by the Airport Authorities. A copy of the 2023 Amendment is attached hereto as **Exhibit B**.

16. Among other things, the MOA contains terms regarding Lynx Air’s collection of AIF from air carrier passengers on behalf of the Airport Authorities. Section 20.1 of the MOA provides:

The Parties expressly disclaim any intention to create a partnership, joint venture, trust relationship or joint enterprise. Nothing contained in this MOA nor any acts of any Party taken in conjunction hereunder, shall constitute or be deemed to constitute a partnership, joint venture, or principal/agency relationship in any way or for any purpose except as the Signatory Air Carriers acting

as agents for the Airports in collecting and remitting the AIF funds. Except as expressly set forth herein, no Party, shall have any authority to act for, or to assume any obligations or responsibility on behalf of, any other Party. [Emphasis added]

(c) The Calgary Airport Authority

17. In addition to the MOA, Lynx Air entered into an Agreement dated April 7, 2022, as amended July 1, 2023, with the Calgary Airport Authority (the “**Agreement**”). The Agreement contains terms under which Lynx would pay certain fees and charges to the Calgary Airport Authority. The Agreement does not make reference to AIF.

18. The Agreement contains confidential and commercially sensitive business information, the public disclosure of which I understand would adversely affect and be prejudicial to the legitimate business interests the Calgary Airport Authority. For this reason, the Agreement contains non-disclosure obligations, prohibiting its public disclosure. As a result, a copy of the Agreement is attached to my Confidential Affidavit at **Exhibit C**, which I have made concurrently with this Affidavit.

19. Lynx Air did not post security in respect of any amounts to be remitted to the Calgary Airport Authority.

(d) Edmonton Regional Airports Authority

20. Lynx Air did not enter into a separate governing agreement with the Edmonton Regional Airports Authority. To my knowledge, the MOA is the only agreement that governs AIF between Lynx Air and the Edmonton Regional Airports Authority.

21. Lynx Air did not post security in respect of any amounts to be remitted to the Edmonton Airport Authority.

(e) Halifax International Airport Authority

22. In addition to the MOA, Lynx Air entered into an Air Carrier Operating Agreement effective June 29, 2022 (the “ACOA”) with the Halifax International Airport Authority, which provides:

The Air Carrier shall collect or cause to be collected from each enplaned passenger the fee then in effect as an airport improvement fee, or any such similar fee, and shall remit, on a monthly basis no later than the end of the month following the month of enplanement by the departing passengers at the Airport plus any applicable taxes, to HIAA.

23. Pursuant to the section titled “Security Deposit”, Lynx Air was required to “deposit with HIAA on or before the day on which it commences operations at the Airport, a security deposit in the amount of \$100,000.00 in the form of a letter of credit”. A copy of the ACOA is attached as Exhibit B to the Affidavit of Paul Brigley, sworn May 23, 2024.

24. On July 29, 2022, Lynx Air provided a cash deposit to the Halifax International Airport Authority for the account of Lynx Air in the amount of \$100,000 (the “**Halifax Security Deposit**”).

(f) Winnipeg Airports Authority

25. Lynx Air did not enter into a separate governing agreement with Winnipeg Airports Authority Inc. However, pursuant to Winnipeg Airports Authority Inc.’s Tariff of Aviation Fees effective April 1, 2021:

- (a) AIF in the amount of \$38 was charged to each originating departing enplaned passenger and was payable by all air carriers operating a commercial air carrier passenger service at the Winnipeg James Armstrong Richardson International Airport; and
- (b) Winnipeg Airports Authority Inc. was entitled to a cash deposit or irrevocable letter of credit to secure payment of any monies due under the Tariff.

26. On April 12, 2022, Lynx Air provided a cash deposit to Winnipeg Airports Authority Inc. for the account of Lynx Air in the amount of \$83,333.00 (the “**Winnipeg Security Deposit**”).

27. A copy of the Tariff is attached as Exhibit B to the Affidavit of Nicole Stefaniuk, sworn May 23, 2024.

(g) *Vancouver Airport Authority*

28. In addition to the MOA, Lynx Air entered into an Airport Use Licence effective November 16, 2021 with the Vancouver Airport Authority (“**Licence**”). The Licence granted a licence to Lynx Air to operate at the Vancouver Airport on the terms and conditions set forth in the Licence. A copy of the License is attached as Exhibit D to the Affidavit of Diana Vuong, affirmed May 23, 2024.

29. With respect to AIF, section 6.23 of the Licence provides:

Subject to the terms and conditions of any existing or future written agreements between the Licensor and the Licensee other than this Licence regarding the Airport Improvement Fee (“AIF”), the Licensee covenants and agrees to co-operate with the Licensor in the Licensor’s administration of the AIF for capital improvements at the Airport, and use reasonable efforts to inform its customers of the AIF, including responding to questions its customers may have about the AIF.

30. Article 10 of the License required Lynx Air to post security for payment of Fees in an amount equal to three months of Fees under the Licence. The License defines Fees to mean “any monies or amounts payable under this License.”

31. On April 6, 2022, Lynx Air posted an Irrevocable Standby Letter of Credit (No. 3539860) to the Vancouver Airport Authority for the account of Lynx Air in the amount of \$279,645.96 (the “**Vancouver Letter of Credit**”).

C. Lynx Air’s CCAA Proceedings

32. On February 22, 2024, Lynx Air obtained protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), pursuant to an initial order granted by the Honourable Justice Gill (the “**Initial Order**”).

33. The Initial Order, among other things: (i) declared that Lynx Air are companies to which the CCAA applies; (ii) appointed FTI Consulting Canada Inc. as Monitor of Lynx Air in these proceedings; and (iii) granted a stay of proceedings in favour of Lynx Air up to and including March 4, 2024 (the “**Initial Stay**”).

34. On March 1, 2024, the Honourable Justice Whitting granted Lynx Air an amended and restated initial order (the “**ARIO**”) that, amongst other things, extended the Initial Stay to April 15, 2024 (the “**Stay Period**”).

35. The Stay Period was extended by further orders of this Court, most recently to June 28, 2024.

36. Copies of the Initial Order, the ARIO, and the body of my Affidavit sworn in support of the Initial Order which described, among other things, the events leading to Lynx Air’s insolvency, their urgent need for relief under the CCAA, and their intended liquidation and orderly wind down within these CCAA proceedings are attached hereto respectively as **Exhibits D, E, and F**.

D. Correspondence Among Lynx Air and the Applicants

(a) The Applicants’ Demand Letters

37. By letter dated March 5, 2024, the GTAA demanded payment from Lynx Air in the amount of \$1,710,148.23 for pre-filing AIF (the “**First GTAA Letter**”). The GTAA explained that pursuant to paragraph 2.1.1(c) of the GTAA AIF Agreement, AIF were held in trust on behalf of the GTAA.

38. The GTAA reiterated its demand for payment of pre-filing AIF by letter dated March 28, 2024 (the “**Second GTAA Letter**”).

39. By separate letter dated March 28, 2024, the Airport Authorities demanded remittance of approximately \$4,100,000 in pre-filing AIF claimed to be held in trust by Lynx Air on behalf of the Airport Authorities (the “**First Airport Authorities Letter**”).

40. A copy of each of the First GTAA Letter, the Second GTAA Letter, and the First Airport Authorities Letter is attached hereto as **Exhibits G, H, and I**.

41. On April 2, 2024, Lynx Air replied to the Applicants' two March 28, 2024 letters (the "**First Lynx Air Letter**"), disagreeing that any amounts were held in trust by Lynx Air.

42. By letter dated April 12, 2024 (the "**Second Lynx Air Letter**"), Lynx Air advised the GTAA that it accepted the existence of a trust relationship, citing section 2.1.1(c) of the GTAA AIF Agreement. Notwithstanding the existence of a trust relationship, Lynx Air took the position that all trust remittances had been made upon the GTAA drawing on the GTAA Letter of Credit, and any residual amounts claimed by the GTAA constituted unsecured pre-filing debt.

43. By letter dated April 15, 2024 (the "**Third Lynx Air Letter**"), Lynx Air provided the Airport Authorities an accounting of pre-filing AIF owed to each Airport Authority and stated its position that there was no evidence of a trust relationship between Lynx Air and any of the Airport Authorities.

44. A copy of each of the First Lynx Air Letter, the Second Lynx Air Letter and the Third Lynx Air Letter is attached hereto as **Exhibits J, K, and L**.

E. Lynx Air's Accounting

(a) The Airport Authorities

45. According to Lynx Air's accounting records, the following AIF were collected by Lynx prior to the Initial Order, on behalf of the Airport Authorities by virtue of a debtor and creditor relationship:

Airport Authority	Pre-filing AIF	Pre-filing Other Debt
Calgary	\$2,031,140.16	\$1,431,308.26
Edmonton	\$355,640.78	\$114,237.51
Halifax	\$365,788.78	\$53,647.02
Vancouver	\$1,185,768.45	\$204,109.05
Winnipeg	\$282,895.00	\$131,568.94

46. Lynx Air collected these AIF from passengers, and they were held in its general bank account, comingled with other funds.

47. Counsel to ATB Financial ("**ATB**") advised Lynx Air that ATB had received a request from the Vancouver Airport Authority to draw on their Irrevocable Standby Letter of Credit (the "**Vancouver ATB Letter**"). A copy of this correspondence is attached hereto as **Exhibit M**. I understand from the Vancouver ATB Letter that ATB paid the Vancouver Airport Authority \$279,645.96 on or around April 3, 2024.

48. Following the foregoing payment by ATB, the Halifax Security Deposit and the Winnipeg Security Deposit, according to Lynx Air's accounting records, the amounts owed to each of the Airport Authorities for AIF is as follows:

Airport Authority	Pre-Filing AIF	Other Pre-Filing Debt	Letter of Credit Drawn or Deposit Applied	Total Net Outstanding
Calgary	\$2,031,140.16	\$1,431,308.26	N/A	\$3,462,448.42
Edmonton	\$355,640.78	\$114,237.51	N/A	\$469,878.29
Halifax	\$365,788.78	\$53,647.02	(\$100,000.00)	\$319,435.80
Vancouver	\$1,185,768.45	\$204,109.05	(\$279,645.96)	\$1,110,231.54
Winnipeg	\$282,895.00	\$131,568.94	(\$83,300.00)	\$331,163.94

49. In calculating the foregoing, Lynx Air treated AIF and other pre-filing debt as unsecured debt, and did not treat AIF as trust funds for accounting purposes. Upon receiving the Airport Authorities affidavits filed in this proceeding, Lynx Air reconciled its accounts against those of the Airport Authorities, and the amounts match (aside from a \$0.01 delta for Edmonton).

50. For the purposes of this proceeding, Lynx Air undertook an accounting which applied the security deposit against other debt in priority to AIF (as appears to have been done by those Airport Authorities that held security), which resulted in the following:

Airport Authority	Pre-Filing AIF	Pre-Filing Other Debt	Letter of Credit Drawn	Total Outstanding AIF	Total Outstanding Other Debt
Halifax	\$365,788.78	\$53,647.02	(\$100,000.00)	\$319,435.80	\$0
Vancouver	\$1,185,768.45	\$206,845	(\$279,645.96)	\$1,110,231.54	\$0
Winnipeg	\$282,895.00	\$131,568.94	(\$83,300.00)	\$282,895.00	\$48,268.94

51. As Calgary Airport Authority and Edmonton Airport Authority had no security, there is no change to total outstanding AIF or other debt. A copy of a detailed accounting for each of the Airport Authorities is attached hereto as **Exhibit N**.

52. For the purposes of this proceeding, Lynx Air undertook an accounting which applied the security deposit against AIF in priority to other debt, which resulted in the following:

Airport Authority	Pre-Filing AIF	Pre-Filing Other Debt	Letter of Credit Drawn / Deposit Applied	Total Outstanding AIF	Total Outstanding Other Debt
Halifax	\$365,788.78	\$53,647.02	(\$100,000.00)	\$265,788.78	\$53,647.02
Vancouver	\$1,185,768.45	\$204,109.05	(\$279,645.96)	\$906,122.49	\$204,109.05
Winnipeg	\$282,895.00	\$131,568.94	(\$83,300.00)	\$199,595.00	\$131,568.94

(b) Airport Authorities' Post-Filing AIF

53. According to Lynx Air's accounting records, Lynx Air paid all post-filing AIF and aeronautical charges owed to the Airport Authorities as follows:

Airport Authority	Post-Filing AIF Owed	Post-Filing Aeronautical Charges Owed	Post-Filing Payment #1	Post-Filing Payment #2	Total Outstanding Post-Filing AIF
Calgary	\$66,749.76	\$51,729.91	\$93,440.00 paid Feb 23, 2024	\$25,039.67 paid March 19, 2024	\$0
Edmonton	\$17,030.69	\$6,862.42	\$27,061.00 paid Feb 23, 2024	N/A	(\$3,167.90) overpaid
Halifax	\$5,486.08	\$435.57	\$7,435.00 paid Feb 23, 2024	\$601.65 paid March 25, 2024	\$0
Vancouver	\$42,361.20	\$7,175.33	\$58,236.00 paid Feb 23, 2024	N/A	(\$8,699.47) overpaid
Winnipeg	\$0	\$0	N/A	N/A	N/A

54. Attached as **Exhibit O** hereto are copies of the correspondence Lynx Air sent to each of Edmonton Regional Airports Authority and Vancouver Airport Authority, documenting a planned pre-payment. Attached as **Exhibit P** hereto are schedules for each of Edmonton Regional Airports Authority and Vancouver Airport Authority evidencing the exact payment made as illustrated above.

55. The "Terminal" and "Total" columns within Exhibit O and P have been redacted to maintain the Edmonton Regional Airports Authority and the Vancouver Airport Authority's rights.

(c) The GTAA AIF

56. According to Lynx Air’s accounting records, it collected \$1,782,424 in AIF prior to the Initial Order, which was held in trust for the GTAA.

57. The GTAA AIF was comingled in Lynx Air’s general bank account.

58. By letter dated February 28, 2024, counsel to ATB advised Lynx Air that ATB had received a request from the GTAA to draw upon the GTAA Letter of Credit (the “GTAA ATB Letter”). Based on the foregoing, I understand that ATB paid the GTAA \$3,100,000 on or around March 1, 2024 for the account of Lynx Air.

59. Lynx Air’s accounting records apply the GTAA Letter of Credit against pre-filing AIF in priority over other debt claims to ensure the remittance of the trust amounts, as follows:

Airport Authority	Pre-Filing AIF	Pre-Filing Other Debt	Letter of Credit	Total Outstanding AIF	Total Outstanding Other Debt
Toronto	\$1,782,424.04	\$2,977,156.83	(\$3,100,000.00)	\$0	\$1,659,580.87

60. If the GTAA Letter of Credit is to be applied against AIF in accordance with the calculations the GTAA prepared in determining the quantum of the GTAA Letter of Credit in October (\$1,599,198 allocated to AIF per Exhibit A), then the accounting would be as follows:

Airport Authority	Pre-Filing AIF	Pre-Filing Other Debt	Letter of Credit	Total Outstanding AIF	Total Outstanding Other Debt
Toronto	\$1,782,424.04	\$2,977,156.83	(\$3,100,000.00)	\$183,226.31	\$1,476,354.56

61. With respect to post-filing AIF, on April 10, 2024, Lynx Air paid \$5,959 to the GTAA, satisfying all post-filing AIF owed since February 22, 2024. Also on April 10, 2024, Lynx Air paid to the GTAA \$48,977.60 for post-filing aeronautical changes for a total \$54,937.07.

62. As such, according to Lynx Air's accounting records, all AIF have been remitted to the GTAA following the calculations in paragraph 57. The remainder of the Letter of Credit – \$1,317,575.96 – satisfied a portion of other pre-filing debt owed by Lynx Air to the GTAA. Any residual amounts claimed by the GTAA constitutes unsecured pre-filing debt.

63. A copy of the GTAA ATB Letter and a detailed accounting of the GTAA's AIF are attached hereto as **Exhibits Q** and **N**.

F. Conclusion

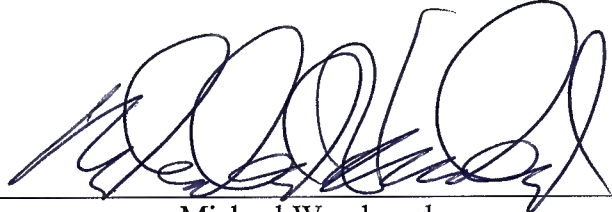
64. I make this affidavit in response to the Applications and for no other improper purpose.

SWORN BEFORE ME at Calgary, Alberta,
this 31st day of May, 2024.



Notary Public and Commissioner for Oaths in
and for the Province of Alberta

ASHLEY ELIZABETH LIGHT
Student-at-Law



Michael Woodward

This is **Exhibit "A"** to the Affidavit of Michael Woodward
sworn before me this 31st day of May 2024.

A handwritten signature in black ink, appearing to read 'Ashley Light', written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

ASHLEY ELIZABETH LIGHT
Student-at-Law

AEROMEXICO - AMX
 Schedule A-1
 Winter 2021 - 22 Season

2023 Airline Information						Aeronautical Charges				General Terminal Charges (CTC) & Apron & Check-In Fees					Airport Improvement Fee		TOTAL Aeronautical & General Terminal Per Month	
Month	Sector	Aircraft	Seats	MTOW	Arrival Mvmnts	Total Landing Fee	De-icing Surcharge	Total Aeronautical Per Mvmnt	TOTAL Aeronautical Per Month	General Terminal Charges	APRON FEE	CHECK-IN Counter fee Boarding Pass @1.31 / PRT Per Seat	CHECK-IN Counter fee Baggage Tag @1.31 / PRT Per Seat	Total General Terminal, Apron & Check-In Fees per Mvmnt	TOTAL General Terminal, Apron & Check-In Fees per month	Total per AIF Mvmnt @\$35.00 per Seat	Total AIF per month	TOTAL Aeronautical & General Terminal Per Month
MAR	Domestic	7M8	189	82	21												\$118,077.75	\$84,814.80
MAR	Transborder	7M8	189	82	4												\$22,491.00	\$17,614.28
APR	Domestic	7M8	189	82	136												\$764,694.00	\$549,276.80
APR	Transborder	7M8	189	82	17												\$95,586.75	\$74,860.69
MAY	Domestic	7M8	189	82	219												\$1,231,382.25	\$884,497.20
MAY	Transborder	7M8	189	82	14												\$78,718.50	\$61,649.98
JUN	Domestic	7M8	189	82	203												\$1,141,418.25	\$819,876.40
JUN	Transborder	7M8	189	82	13												\$73,095.75	\$57,246.41
JUL	Domestic	7M8	189	82	273												\$1,535,010.75	\$1,102,592.40
JUL	Transborder	7M8	189	82	13												\$73,095.75	\$57,246.41
AUG	Domestic	7M8	189	82	323												\$1,816,148.25	\$1,304,532.40
AUG	Transborder	7M8	189	82	13												\$73,095.75	\$57,246.41
SEP	Domestic	7M8	189	82	302												\$1,698,070.50	\$1,219,717.60
SEP	Transborder	7M8	189	82	51												\$286,760.25	\$224,582.07
OCT	Domestic	7M8	189	82	228												\$1,281,987.00	\$920,846.40
OCT	Transborder	7M8	189	82	60												\$337,365.00	\$264,214.20
																	\$10,626,997.50	\$7,700,814.45

Start Date:	End Date:	Days
26-Mar-23	28-Oct-23	217

Requirement Per Day: **\$48,972.34** **\$35,487.62**

GTAA Aeronautical Fees	
Effective January 1, 2023	
Total Landing Fee:	\$18.97
Deicing Fee:	\$2.41
General Terminal Charges:	
Domestic Arrivals	\$7.79
Non-Domestic arrivals	\$9.72
Aircraft Code C:	\$3.03

Aeronautical Related Security Deposit Requirement @45Days:	\$	1,596,943
AIF Security Deposit Requirement @30 Days:	\$	1,469,170
TOTAL SECURITY DEPOSIT REQUIREMENT:	\$	3,066,113

LOC 500000

AEROMEXICO - AMX
 Schedule A-1
 Winter 2021 - 22 Season

2023 Airline Information						Aeronautical Charges				General Terminal Charges (CTC) & Apron & Check-In Fees					Airport Improvement Fee				
Month	Sector	Aircraft	Seats	MTOW	Arrival Mvmnts	Total Landing Fee	De-icing Surcharge	Total Aeronautical Per Mvmnt	TOTAL Aeronautical Per Month	General Terminal Charges	APRON FEE	CHECK-IN Counter fee Boarding Pass @1.31 / PRT Per Seat	CHECK-IN Counter fee Baggage Tag @1.31 / PRT Per Seat	Total General Terminal, Apron & Check-In Fees per Mvmnt	TOTAL General Terminal, Apron & Check-In Fees per month	Total per AIF Mvmnt @\$35.00 per Seat	Total AIF month	per	TOTAL Aeronautical & General Terminal Per Month
OCT	Domestic	7M8	189	82	15											\$6,615.00	\$99,225.00		\$60,582.00
OCT	Transborder	7M8	189	82	3											\$6,615.00	\$19,845.00		\$13,210.71
NOV	Domestic	7M8	189	82	143											\$6,615.00	\$945,945.00		\$577,548.40
NOV	Transborder	7M8	189	82	74											\$6,615.00	\$489,510.00		\$325,864.18
DEC	Domestic	7M8	189	82	157											\$6,615.00	\$1,038,555.00		\$634,091.60
DEC	Transborder	7M8	189	82	99											\$6,615.00	\$654,885.00		\$435,953.43
JAN	Domestic	7M8	189	82	152											\$6,615.00	\$1,005,480.00		\$613,897.60
JAN	International	7M8	189	82	3											\$6,615.00	\$19,845.00		\$13,210.71
JAN	Transborder	7M8	189	82	98											\$6,615.00	\$648,270.00		\$431,549.86
FEB	Domestic	7M8	189	82	125											\$6,615.00	\$826,875.00		\$504,850.00
FEB	International	7M8	189	82	31											\$6,615.00	\$205,065.00		\$139,381.58
FEB	Transborder	7M8	189	82	90											\$6,615.00	\$595,350.00		\$404,656.20
MAR	Domestic	7M8	189	82	128											\$6,615.00	\$846,720.00		\$516,966.40
MAR	International	7M8	189	82	34											\$6,615.00	\$224,910.00		\$149,721.38
MAR	Transborder	7M8	189	82	89											\$6,615.00	\$588,735.00		\$391,917.73

\$8,209,215.00 \$5,213,401.78

Start Date:	End Date:	Days
29-Oct-23	30-Mar-24	154

Requirement Per Day: \$53,306.59 \$33,853.26

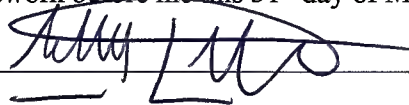
GTAA Aeronautical Fees	
Effective January 1, 2023	
Total Landing Fee:	\$18.97
Deicing Fee:	\$2.41
General Terminal Charges:	
Domestic Arrivals	\$7.79
Non-Domestic arrivals	\$9.72
Aircraft Code C:	\$3.03

Aeronautical Related Security Deposit Requirement @45Days:	\$ 1,523,397	0.487862
AIF Security Deposit Requirement @30 Days:	\$ 1,599,198	0.512138
TOTAL SECURITY DEPOSIT REQUIREMENT:	\$ 3,122,594	

LOC \$3,100,000

This is **Exhibit "B"** to the Affidavit of Michael Woodward

sworn before me this 31st day of May 2024.

A handwritten signature in black ink, appearing to read 'Ashley Light', written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

ASHLEY ELIZABETH LIGHT
Student-at-Law

From: Danielle Lavoie <dlavoie@atac.ca>
Sent: Thursday, December 21, 2023 12:40 PM
Cc: Wayne Gouveia <wgouveia@atac.ca>; Danielle Lavoie <dlavoie@atac.ca>
Subject: MOA on AIF extension approved until June 30, 2024
Importance: High

You don't often get email from dlavoie@atac.ca. [Learn why this is important](#)

Important

To all Airline and Airport Signatories of the MOA on the AIF (bcc):

ATAC has executed the process to extend the MOA on AIF as requested by the MOA negotiating parties representing Airlines and Airports.

Please note that the required majority of consents from the Signatories were attained in order for the current Memorandum of Agreement on Airport Improvement Fees (MOA on AIF) to be extended.

The amendment now extends the original 20-year term plus 5 years 1 month extension, until **June 30, 2024**.

ATAC supports the extension of the term of the MOA and continues to support all signatory parties throughout the negotiation of the new agreement that will replace the current MOA.

Best regards,

Wayne Gouveia
MOA on AIF Administrator

Danielle Lavoie

Executive Assistant to Vice Presidents
Adjointe exécutive des vice-présidents

T. 613-233-7727 #304 C. 613-314-8435 F. 613-230-8648
dlavoie@atac.ca www.atac.ca
222 Queen Street, Suite 1505, Ottawa, ON K1P 5V9



This is **Confidential Exhibit "C"** to the Affidavit of Michael

Woodward sworn before me this 31st day of May 2024.

A handwritten signature in black ink, appearing to read 'Ashley Elizabeth Light', written over a horizontal line.

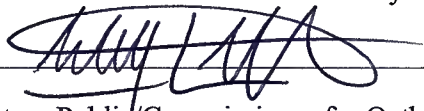
Notary Public/Commissioner for Oaths in and for Alberta

ASHLEY ELIZABETH LIGHT
Student-at-Law

Confidential Exhibit "C"

This is **Exhibit "D"** to the Affidavit of Michael Woodward

sworn before me this 31st day of May 2024.

A handwritten signature in black ink, appearing to read 'Ashley Light', written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

ASHLEY ELIZABETH LIGHT
Student-at-Law

COURT FILE NUMBER 2401- 02664

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY



IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, as amended

AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF LYNX AIR HOLDINGS CORPORATION
and 1263343 ALBERTA INC. dba LYNX AIR

DOCUMENT **CCAA INITIAL ORDER**

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

OSLER, HOSKIN & HARCOURT LLP

Barristers & Solicitors
Brookfield Place, Suite 2700
225 6 Ave SW
Calgary, AB T2P 1N2

Solicitors: Randal Van de Mosselaer / Julie Treleaven

Telephone: (403) 260-7000

Facsimile: (403) 260-7024

Email: RVandemosselaer@osler.com / JTreleaven@osler.com

File Number: 1246361

DATE ON WHICH ORDER WAS PRONOUNCED:

February 22, 2024

JUSTICE WHO MADE THIS ORDER:

The Honourable Justice Gill

LOCATION WHERE ORDER WAS PRONOUNCED:

Edmonton, Alberta

UPON THE APPLICATION of Lynx Air Holdings Corporation and 1263343 Alberta Inc. dba Lynx Air (the “**Applicants**”); **AND UPON** having read the Originating Application, the Affidavit of Michael Woodward sworn February 22, 2024 (the “**Woodward Affidavit**”), the Confidential Affidavit of Michael Woodward sworn February 22, 2024, and the Affidavit of Service of Elena Pratt, to be filed; **AND UPON** reading the consent of FTI Consulting Canada Inc. (“**FTI**”) to act as Monitor; **AND UPON** being advised that the secured creditors who are likely to be affected by the charges created herein have been provided notice of this application and either do not oppose or alternatively consent to the within; **AND UPON** hearing counsel for Indigo Northern Ventures LP (the “**Interim Lender**”), counsel for FTI, and counsel for any other party present at the application; **IT IS HEREBY ORDERED AND DECLARED THAT:**

SERVICE

1. The time for service of the notice of application for this order (the “**Order**”) is hereby abridged and deemed good and sufficient and this application is properly returnable today.

APPLICATION

2. The Applicants are companies to which the *Companies’ Creditors Arrangement Act* of Canada (the “**CCAA**”) applies.

PLAN OF ARRANGEMENT

3. The Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (the “**Plan**”).

POSSESSION OF PROPERTY AND OPERATIONS

4. The Applicants shall:
 - (a) remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”);

- (b) subject to further order of this Court, continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) or their Property;
 - (c) be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order; and
 - (d) be entitled to continue to utilize the central cash management system currently in place as described in the Affidavit of Michael Woodward sworn February 22, 2024 or replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.
5. To the extent permitted by law, the Applicants shall be entitled but not required to make the following advances or payments of the following expenses, incurred prior to or after this Order:
- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case

incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and

- (b) the reasonable fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges, including for periods prior to the date of this Order.

6. Except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicants following the date of this Order.

7. The Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in Right of Canada or of any Province thereof or any other taxation authority that are required to be deducted from employees' wages, including, without limitation, amounts in respect of:
 - (i) employment insurance,
 - (ii) Canada Pension Plan,
 - (iii) Quebec Pension Plan, and
 - (iv) income taxes,

but only where such statutory deemed trust amounts arise after the date of this Order, or are not required to be remitted until after the date of this Order, unless otherwise ordered by the Court;

- (b) all goods and services or other applicable sales taxes (collectively, “**Sales Taxes**”) required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and
 - (c) any amount payable to the Crown in Right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and that are attributable to or in respect of the carrying on of the Business by the Applicants.
- 8. Until such time as a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicants may pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated by the Applicants from time to time for the period commencing from and including the date of this Order (“**Rent**”), but shall not pay any rent in arrears.
- 9. Except as specifically permitted in this Order, the Applicants are hereby directed, until further order of this Court:
 - (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of the date of this Order;
 - (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and
 - (c) not to grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

10. The Applicants shall, subject to such requirements as are imposed by the CCAA, and such covenants as may be contained in the Definitive Documents (as hereinafter defined in paragraph 34), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any portion of their business or operations and to dispose of redundant or non-material assets not exceeding \$100,000 in any one transaction or \$250,000 in the aggregate, provided that any sale that is either (i) in excess of the above thresholds, or (ii) in favour of a person related to the Applicants (within the meaning of section 36(5) of the CCAA), shall require authorization by this Court in accordance with section 36 of the CCAA;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate on such terms as may be agreed upon between the Applicants and such employee, or failing such agreement, to deal with the consequences thereof in the Plan;
- (c) disclaim or resiliate, in whole or in part, with the prior consent of the Monitor (as defined below) or further Order of the Court, their arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the Applicants deem appropriate, in accordance with section 32 of the CCAA, excepting any aircraft purchase agreement between the Applicants and any airplane manufacturer, as any such agreement may be amended and supplemented from time to time, which shall not be disclaimed, resiliated or amended without the prior consent of the Interim Lender and the Monitor, or upon further order of the Court.; and
- (d) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

11. Pursuant to section 5(5) of the Wage Earner Protection Program Act (Canada), SC 2005, c 47, s 1 ("WEPPA"), the Applicants and their collective former employees meet the criteria prescribed by section 3.2 of the Wage Earner Protection Program Regulations, SOR/2008-222 and are individuals to whom the WEPPA applies as of the date of this Order.
12. The Applicants shall provide each of the relevant landlords with notice of the Applicants' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal. If the landlord disputes the Applicants' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further order of this Court upon application by the Applicants on at least two (2) days' notice to such landlord and any such secured creditors. If the Applicants disclaim or resiliate the lease governing such leased premises in accordance with section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute other than Rent payable for the notice period provided for in section 32(5) of the CCAA, and the disclaimer or resciliation of the lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.
13. If a notice of disclaimer or resciliation is delivered pursuant to section 32 of the CCAA, then:
 - (a) during the notice period prior to the effective time of the disclaimer or resciliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice; and
 - (b) at the effective time of the disclaimer or resciliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises and such landlord shall be entitled to

notify the Applicants of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

14. Until and including March 4, 2024, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (including any airport, airport authority, Nav Canada or other air navigation service providers, travel agents, tour operators, general sales agents, ground handling services, ground handling equipment, aircraft and equipment maintenance suppliers and personnel (including Delta TechOps and Delta Air Lines, Inc.), fuel suppliers, catering, and all persons involved in the collection and distribution of monies in connection with passenger and air cargo operations) (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”), whether judicial or extra-judicial, statutory or non-statutory against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided that nothing in this Order shall:
 - (a) empower the Applicants to carry on any business that the Applicants are not lawfully entitled to carry on;

- (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by section 11.1 of the CCAA;
 - (c) prevent the filing of any registration to preserve or perfect a security interest;
 - (d) prevent the registration of a claim for lien; or
 - (e) exempt the Applicants from compliance with statutory or regulatory provisions relating to health, safety or the environment.
16. Nothing in this Order shall prevent any party from taking an action against the Applicants where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor at the first available opportunity.

NO INTERFERENCE WITH RIGHTS

17. During the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

18. During the Stay Period, all Persons having:
- (a) statutory or regulatory mandates for the supply of goods and/or services; or
 - (b) oral or written agreements or arrangements with either of the Applicants, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services (including aircraft and equipment maintenance services), utility or other services to the Business or the Applicants

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be

required by the Applicants or exercising any other remedy provided under such agreements or arrangements. The Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with the payment practices of the Applicants, or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

19. Nothing in this Order has the effect of prohibiting a Person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person, other than the Interim Lender (as hereinafter defined) where applicable, be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA and paragraph 16 of this Order, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date of this Order and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

21. The Applicants shall indemnify their directors and officers against obligations and

liabilities that they may incur as directors and or officers of the Applicants after the commencement of the within proceedings except to the extent that, with respect to any officer or director, the obligation was incurred as a result of the director's or officer's gross negligence or wilful misconduct. Without limiting the generality of the foregoing, for purposes of this Order "officer" shall include the Applicants' contractor providing the services of a Chief Financial Officer.

22. The directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$500,000, as security for the indemnity provided in paragraph 21 of this Order. The Directors' Charge shall have the priority set out in paragraphs 38 and 40 herein.
23. Notwithstanding any language in any applicable insurance policy to the contrary:
 - (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and
 - (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 21 of this Order.

APPOINTMENT OF MONITOR

24. FTI is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property, Business, and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein. The Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the

assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

25. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:
- (a) monitor the Applicants' receipts and disbursements, Business and dealings with the Property;
 - (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein and immediately report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of the Applicants;
 - (c) assist the Applicants, to the extent required by the Applicants, in its dissemination to the Interim Lender and its counsel on a periodic basis as required by the Definitive Documents of financial and other information as agreed to between the Applicants and the Interim Lender which may be used in these proceedings, including reporting on a basis as reasonably required by the Interim Lender;
 - (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the Interim Lender, which information shall be reviewed with the Monitor and delivered to the Interim Lender and its counsel on a periodic basis, but not less than weekly, or as otherwise agreed to by the Interim Lender;
 - (e) advise the Applicants in their development of the Plan and any amendments to the Plan;
 - (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
 - (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form and other financial documents of the Applicants to the extent that is necessary to adequately assess the Property,

Business, and financial affairs of the Applicants or to perform their duties arising under this Order;

- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (i) hold funds in trust or in escrow, to the extent required, to facilitate settlements between the Applicants and any other Person; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

26. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintain possession or control of the Business or Property, or any part thereof. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management of any of the Property that might be environmentally contaminated, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal or waste or other contamination, provided however that this Order does not exempt the Monitor from any duty to report or make disclosure imposed by applicable environmental legislation or regulation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order be deemed to be in possession of any of the Property within the meaning of any federal or provincial environmental legislation.

27. The Monitor shall provide any creditor of the Applicants with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the

Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

28. In addition to the rights and protections afforded the Monitor under the CCAA or as an Officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.
29. The Monitor, counsel to the Monitor, and counsel to the Applicants shall be paid their reasonable fees and disbursements (including any pre-filing fees and disbursements related to these CCAA proceedings), in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a semi-monthly basis and, in addition, the Applicants are hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicants, retainers in the respective amounts of \$100,000, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.
30. The Monitor and its legal counsel shall pass their accounts from time to time.
31. The Monitor, counsel to the Monitor, if any, and the Applicants' counsel, as security for the professional fees and disbursements incurred both before and after the granting of this Order, shall be entitled to the benefits of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$500,000, as security for their professional fees and disbursements incurred at the normal rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 38 and 40 hereof.

INTERIM FINANCING

32. The Applicants are hereby authorized and empowered to obtain and borrow under a credit

facility from the Interim Lender in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed USD\$750,000 unless permitted by further order of this Court.

33. Such credit facility shall be on the terms and subject to the conditions set forth in the interim financing term sheet between the Applicants and the Interim Lender made as of February 21, 2024 (the "**Commitment Letter**").
34. The Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs, and security documents, guarantees and other definitive documents (together with the Commitment Letter, the "**Definitive Documents**"), as are contemplated by the Commitment Letter or as may be reasonably required by the Interim Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities, and obligations to the Interim Lender under and pursuant to the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.
35. The Interim Lender shall be entitled to the benefits of and is hereby granted a charge (the "**Interim Lender's Charge**") on the Property to secure all obligations under the Definitive Documents incurred on or after the date of this Order which charge shall not exceed the aggregate amount advanced on or after the date of this Order under the Definitive Documents. The Interim Lender's Charge shall not secure any obligation existing before this the date this Order is made. The Interim Lender's Charge shall have the priority set out in paragraphs 38 and 40 hereof.
36. Notwithstanding any other provision of this Order:
 - (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Lender's Charge or any of the Definitive Documents;
 - (b) upon the occurrence of an event of default under the Definitive Documents or the

Interim Lender's Charge, the Interim Lender, upon three (3) days' notice (or such other period as set out in the Definitive Documents) to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Commitment Letter, Definitive Documents, and the Interim Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the Interim Lender to the Applicants against the obligations of the Applicants to the Interim Lender under the Commitment Letter, the Definitive Documents or the Interim Lender's Charge, to make demand, accelerate payment, and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and

- (c) the foregoing rights and remedies of the Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

- 37. The Interim Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the Bankruptcy and Insolvency Act of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES

- 38. The priorities of the Administration Charge and the Interim Lender's Charge, as between them, shall be as follows:

First – Administration Charge (to the maximum amount of \$500,000);

Second – Interim Lender's Charge;

Third – Directors' Charge (to the maximum amount of \$500,000).

39. The filing, registration or perfection of the the Administration Charge, the Interim Lender's Charge, and the Directors' Charge (collectively, the "**Charges**") shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.
40. Each of the Administration Charge, the Interim Lender's Charge, and Directors' Charge (each as constituted and defined herein) shall constitute a charge on the Property and subject always to section 34(11) of the CCAA the Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person. Without limiting the generality of the foregoing, and subject to further Order of this Court, the Charges shall not rank in priority to the interests of any aircraft lessor or financier as described in paragraphs 70 and 71 of the Woodward Affidavit.
41. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or pari passu with, the Administration Charge, the Interim Lender's Charge, or the Directors' Charge unless the Applicants also obtain the prior written consent of the Monitor, the Interim Lender, and the beneficiaries of the Administration Charge and the Directors' Charge, or further order of this Court.
42. The Administration Charge, the Commitment Letter, the Definitive Documents, and the Interim Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the Interim Lender thereunder shall not otherwise be limited or impaired in any way by:
 - (a) the pendency of these proceedings and the declarations of insolvency made in this Order;
 - (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications;

- (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA;
- (d) the provisions of any federal or provincial statutes; or
- (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) that binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:
 - (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof, including the Commitment Letter or the Definitive Documents, shall create or be deemed to constitute a new breach by the Applicants of any Agreement to which they are a party;
 - (ii) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges, the Applicants entering into the Commitment Letter, or the execution, delivery or performance of the Definitive Documents; and
 - (iii) the payments made by the Applicants pursuant to this Order, including the Commitment Letter or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

ALLOCATION

43. Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the Charges amongst the various assets comprising the Property.

SERVICE AND NOTICE

44. The Monitor shall (i) without delay, publish in the Calgary Herald and the Globe and Mail a notice containing the information prescribed under the CCAA; (ii) within five (5) days after the date of this Order (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than \$1,000 and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with section 23(1)(a) of the CCAA and the regulations made thereunder.
45. The Monitor shall establish a case website in respect of the within proceedings at <http://cfcanada.fticonsulting.com/lynxair>.

GENERAL

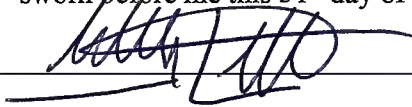
46. The Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
47. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Monitor will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Monitor's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
48. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager or a trustee in bankruptcy of the Applicant, the Business or the Property.
49. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such

assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

50. Each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Monitor is authorized and empowered to act as a representative in respect of the within proceeding for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
51. Any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
52. This Order and all of its provisions are effective as of 12:01 a.m. Mountain Standard Time on the date of this Order.


Justice of the Court of King's Bench of Alberta

This is **Exhibit "E"** to the Affidavit of Michael Woodward
sworn before me this 31st day of May 2024.

A handwritten signature in black ink, appearing to read 'Ashley Light', written over a horizontal line.

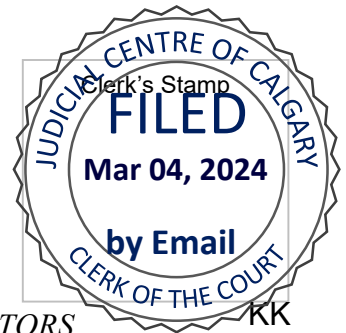
Notary Public/Commissioner for Oaths in and for Alberta

ASHLEY ELIZABETH LIGHT
Student-at-Law

COURT FILE NUMBER 2401-02664

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY



IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, as amended

AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF LYNX AIR HOLDINGS CORPORATION and 1263343 ALBERTA INC. dba LYNX AIR

DOCUMENT **AMENDED AND RESTATED INITIAL ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **OSLER, HOSKIN & HARCOURT LLP**
Barristers & Solicitors
Brookfield Place, Suite 2700
225 6 Ave SW
Calgary, AB T2P 1N2

Solicitors: Randal Van de Mosselaer / Julie Treleaven
Telephone: (403) 260-7000 / 7048
Email: RVandemosselaer@osler.com / JTreleaven@osler.com
File Number: 1246361

DATE ON WHICH ORDER WAS PRONOUNCED: March 1, 2024

JUSTICE WHO MADE THIS ORDER: The Honourable Justice Whiting

LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton, Alberta

UPON THE APPLICATION of Lynx Air Holdings Corporation and 1263343 Alberta Inc. dba Lynx Air (the "**Applicants**"); **AND UPON** having read the Application, the Affidavit of Michael Woodward sworn February 22, 2024 (the "**First Woodward Affidavit**"), the Confidential Affidavit of Michael Woodward sworn February 22, 2024, the Affidavit of Micheal Woodward sworn February 28, 2024 (the "**Second Woodward Affidavit**"), and the Confidential Affidavit of Michael Woodward sworn February 28, 2024 (the "**Second Confidential Woodward Affidavit**"); **AND UPON** reading the First Report of FTI Consulting Canada Inc. ("**FTI**") in its capacity as monitor of the Applicants (the "**Monitor**"), filed February 28, 2024; **AND UPON** hearing the submissions of counsel for the Applicants, counsel for Indigo Northern Ventures LP (the "**Interim Lender**"), counsel for the Monitor, and counsel for any other party present at the application; **AND**

UPON reviewing the initial order granted in the within proceedings pursuant to the *Companies' Creditors Arrangement Act (Canada)* (the "CCAA") by the Honourable Justice Gill on February 22, 2024 (the "**Initial Order**");

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. The time for service of the notice of application for this order (the "**Order**") is hereby abridged and deemed good and sufficient and this application is properly returnable today.

DEFINED TERMS

2. Capitalized terms used but not otherwise defined shall have the meaning given to such terms in the Initial Order.

APPLICATION

3. The Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

4. The Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

5. The Applicants shall:
 - (a) remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**");
 - (b) subject to further order of this Court, continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") or their Property;
 - (c) be authorized and empowered to continue to retain and employ the employees,

consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order; and

- (d) be entitled to continue to utilize the central cash management system currently in place as described in the Affidavit of Michael Woodward sworn February 22, 2024 or replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. To the extent permitted by law, the Applicants shall be entitled but not required to make the following advances or payments of the following expenses, incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the reasonable fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges, including for periods prior to the date of this Order.

7. Except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:
 - (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
 - (b) payment for goods or services actually supplied to the Applicants following the date of this Order.

8. The Applicants shall remit, in accordance with legal requirements, or pay:
 - (a) all amounts which could be subject to a demand under subsection 224(1.2) of the *Income Tax Act* (Canada) or any similar provision of the *Canada Pension Plan*, the *Employment Insurance Act*, or any provision of any provincial legislation that has a purpose similar to subsection 224(1.2) of the *Income Tax Act* or that refers to subsection 224(1.2) of the *Income Tax Act* in respect of any amounts that arise and are payable on or after February 22, 2024;
 - (b) all goods and services or other applicable sales taxes (collectively, “**Sales Taxes**”) required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes accrued or were collected on or after February 22, 2024, or, where such Sales Taxes accrued or were collected prior to February 22, 2024 but were not required to be remitted until after February 22, 2024; and
 - (c) any amount payable to the Crown in Right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured

creditors and that are attributable to or in respect of the carrying on of the Business by the Applicants.

9. Until such time as a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicants may pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated by the Applicants from time to time for the period commencing from and including the date of this Order (“**Rent**”), but shall not pay any rent in arrears.
10. Except as specifically permitted in this Order, the Applicants are hereby directed, until further order of this Court:
 - (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of the date of this Order;
 - (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and
 - (c) not to grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. The Applicants shall, subject to such requirements as are imposed by the CCAA, and such covenants as may be contained in the Definitive Documents (as hereinafter defined in paragraph 35), have the right to:
 - (a) permanently or temporarily cease, downsize or shut down any portion of their business or operations and to dispose of redundant or non-material assets not exceeding \$100,000 in any one transaction or \$250,000 in the aggregate, provided that any sale that is either (i) in excess of the above thresholds, or (ii) in favour of a person related to the Applicants (within the meaning of section 36(5) of the

CCAA), shall require authorization by this Court in accordance with section 36 of the CCAA;

- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate on such terms as may be agreed upon between the Applicants and such employee, or failing such agreement, to deal with the consequences thereof in the Plan;
- (c) disclaim or resiliate, in whole or in part, with the prior consent of the Monitor (as defined below) or further Order of the Court, their arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the Applicants deem appropriate, in accordance with section 32 of the CCAA, excepting any aircraft purchase agreement between the Applicants and any airplane manufacturer, as any such agreement may be amended and supplemented from time to time, which shall not be disclaimed, resiliated or amended without the prior consent of the Interim Lender and the Monitor, or upon further order of the Court.; and
- (d) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

- 12. Pursuant to section 5(5) of the Wage Earner Protection Program Act (Canada), SC 2005, c 47, s 1 (“WEPPA”), the Applicants and their collective former employees meet the criteria prescribed by section 3.2 of the Wage Earner Protection Program Regulations, SOR/2008-222 and are individuals to whom the WEPPA applies as of the date of the Initial Order.
- 13. The Applicants shall provide each of the relevant landlords with notice of the Applicants’ intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal. If the landlord disputes the Applicants’ entitlement to remove any such fixture under the provisions of the

lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further order of this Court upon application by the Applicants on at least two (2) days' notice to such landlord and any such secured creditors. If the Applicants disclaim or resiliate the lease governing such leased premises in accordance with section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute other than Rent payable for the notice period provided for in section 32(5) of the CCAA, and the disclaimer or resiliation of the lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.

14. If a notice of disclaimer or resiliation is delivered pursuant to section 32 of the CCAA, then:
 - (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice; and
 - (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicants of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

15. Until and including April 15, 2024, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the

Business or the Property are hereby stayed and suspended pending further order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

16. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (including any airport, airport authority, Nav Canada or other air navigation service providers, travel agents, tour operators, general sales agents, ground handling services, ground handling equipment, aircraft and equipment maintenance suppliers and personnel (including Delta TechOps and Delta Air Lines, Inc.), fuel suppliers, catering, and all persons involved in the collection and distribution of monies in connection with passenger and air cargo operations) (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”), whether judicial or extra-judicial, statutory or non-statutory against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided that nothing in this Order shall:
 - (a) empower the Applicants to carry on any business that the Applicants are not lawfully entitled to carry on;
 - (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by section 11.1 of the CCAA;
 - (c) prevent the filing of any registration to preserve or perfect a security interest;
 - (d) prevent the registration of a claim for lien; or
 - (e) exempt the Applicants from compliance with statutory or regulatory provisions relating to health, safety or the environment.
17. Nothing in this Order shall prevent any party from taking an action against the Applicants where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such

party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor at the first available opportunity.

NO INTERFERENCE WITH RIGHTS

18. During the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

19. During the Stay Period, all Persons having:
- (a) statutory or regulatory mandates for the supply of goods and/or services; or
 - (b) oral or written agreements or arrangements with either of the Applicants, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services (including aircraft and equipment maintenance services), utility or other services to the Business or the Applicants

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Applicants or exercising any other remedy provided under such agreements or arrangements. The Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with the payment practices of the Applicants, or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

20. Nothing in this Order has the effect of prohibiting a Person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person, other than the Interim Lender where applicable, be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

21. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA and paragraph 17 of this Order, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date of the Initial Order and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

22. The Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors and or officers of the Applicants after the commencement of the within proceedings except to the extent that, with respect to any officer or director, the obligation was incurred as a result of the director's or officer's gross negligence or wilful misconduct. Without limiting the generality of the foregoing, for purposes of this Order "officer" shall include the Applicants' contractor providing the services of a Chief Financial Officer.
23. The directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$500,000, as security for the indemnity provided in paragraph 22 of this Order. The Directors' Charge shall have the priority set out in paragraphs 43 and 45

herein.

24. Notwithstanding any language in any applicable insurance policy to the contrary:
- (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and
 - (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 22 of this Order.

APPOINTMENT OF MONITOR

25. FTI is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property, Business, and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein. The Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.
26. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:
- (a) monitor the Applicants' receipts and disbursements, Business and dealings with the Property;
 - (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein and immediately report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of the Applicants;

- (c) assist the Applicants, to the extent required by the Applicants, in its dissemination to the Interim Lender and its counsel on a periodic basis as required by the Definitive Documents of financial and other information as agreed to between the Applicants and the Interim Lender which may be used in these proceedings, including reporting on a basis as reasonably required by the Interim Lender;
 - (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the Interim Lender, which information shall be reviewed with the Monitor and delivered to the Interim Lender and its counsel on a periodic basis, but not less than weekly, or as otherwise agreed to by the Interim Lender;
 - (e) advise the Applicants in their development of the Plan and any amendments to the Plan;
 - (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
 - (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form and other financial documents of the Applicants to the extent that is necessary to adequately assess the Property, Business, and financial affairs of the Applicants or to perform their duties arising under this Order;
 - (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
 - (i) hold funds in trust or in escrow, to the extent required, to facilitate settlements between the Applicants and any other Person; and
 - (j) perform such other duties as are required by this Order or by this Court from time to time.
27. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by

fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintain possession or control of the Business or Property, or any part thereof. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management of any of the Property that might be environmentally contaminated, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal or waste or other contamination, provided however that this Order does not exempt the Monitor from any duty to report or make disclosure imposed by applicable environmental legislation or regulation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order be deemed to be in possession of any of the Property within the meaning of any federal or provincial environmental legislation.

28. The Monitor shall provide any creditor of the Applicants with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.
29. In addition to the rights and protections afforded to the Monitor under the CCAA or as an Officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.
30. The Monitor, counsel to the Monitor, and counsel to the Applicants shall be paid their reasonable fees and disbursements (including any pre-filing fees and disbursements related to these CCAA proceedings), in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized

and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a semi-monthly basis and, in addition, the Applicants are hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicants, retainers in the respective amounts of \$100,000, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

31. The Monitor and its legal counsel shall pass their accounts from time to time.
32. The Monitor, counsel to the Monitor, if any, and the Applicants' counsel, as security for the professional fees and disbursements incurred both before and after the granting of the Initial Order, shall be entitled to the benefits of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$500,000, as security for their professional fees and disbursements incurred at the normal rates and charges of the Monitor and such counsel, both before and after the making of the Initial Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 43 and 45 hereof.

INTERIM FINANCING

33. The Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from the Interim Lender in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed CAD\$5,013,000 (denominated in USD) unless permitted by further order of this Court.
34. Such credit facility shall be on the terms and subject to the conditions set forth in the interim financing term sheet between the Applicants and the Interim Lender made as of February 21, 2024 (the "**Commitment Letter**").
35. The Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs, and security documents, guarantees and other definitive documents (together with the Commitment Letter, the "**Definitive Documents**"), as are contemplated by the Commitment Letter or as may be reasonably required by the Interim Lender pursuant to the terms thereof, and the Applicants are hereby authorized and

directed to pay and perform all of their indebtedness, interest, fees, liabilities, and obligations to the Interim Lender under and pursuant to the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

36. The Interim Lender shall be entitled to the benefits of and is hereby granted a charge (the “**Interim Lender’s Charge**”) on the Property to secure all obligations under the Definitive Documents incurred on or after the date of the Initial Order which charge shall not exceed the aggregate amount advanced on or after the date of the Initial Order under the Definitive Documents. The Interim Lender’s Charge shall not secure any obligation existing before the date the Initial Order was made. The Interim Lender’s Charge shall have the priority set out in paragraphs 43 and 45 hereof.
37. Notwithstanding any other provision of this Order:
 - (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Lender’s Charge or any of the Definitive Documents;
 - (b) upon the occurrence of an event of default under the Definitive Documents or the Interim Lender’s Charge, the Interim Lender, upon three (3) days’ notice (or such other period as set out in the Definitive Documents) to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Commitment Letter, Definitive Documents, and the Interim Lender’s Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the Interim Lender to the Applicants against the obligations of the Applicants to the Interim Lender under the Commitment Letter, the Definitive Documents or the Interim Lender’s Charge, to make demand, accelerate payment, and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and

(c) the foregoing rights and remedies of the Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

38. The Interim Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the Bankruptcy and Insolvency Act of Canada (the “**BIA**”), with respect to any advances made under the Definitive Documents.

KEY EMPLOYEE RETENTION PLAN AND CHARGE

39. The terms and conditions of the key employee retention plan (“**KERP**”) as attached as Exhibit “A” to the Confidential Woodward Affidavit are hereby approved. The Applicants are hereby authorized to perform their obligations under the KERP, including making all payments to the key employees identified in the KERP in accordance with the terms and conditions thereof.

40. The employees covered by the KERP shall be entitled to the benefit of and are granted a charge on the Property (the “**KERP Charge**”) which shall not exceed the maximum amount of CAD\$1,179,094 as security for the obligations of the Applicants under the KERP.

41. The KERP Charge shall have the respective priority as set out in paragraphs 43 and 45 of this Order.

42. The filing, registration or perfection of the KERP Charge shall not be required, and the KERP Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered recorded or perfected subsequent to the KERP Charge coming into existence, notwithstanding any such failure to file, register record or perfect.

VALIDITY AND PRIORITY OF CHARGES

43. The priorities of the Administration Charge, the Interim Lender’s Charge, the KERP Charge, and the Director’s Charge as between them, shall be as follows:

First – Administration Charge (to the maximum amount of \$500,000);

Second – Interim Lender’s Charge;

Third – Directors’ Charge (to the maximum amount of \$500,000);

Fourth – KERP Charge.

44. The filing, registration or perfection of the Administration Charge, the Interim Lender’s Charge, the Directors’ Charge, and the KERP Charge (collectively, the “**Charges**”) shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.
45. Each of the Administration Charge, the Interim Lender's Charge, the Directors' Charge, and the KERP Charge (each as constituted and defined herein) shall constitute a charge on the Property and subject always to section 34(11) of the CCAA the Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person. Without limiting the generality of the foregoing, the Charges shall not (i) attach to any aircraft or engine that is leased to any of the Applicants or any lease agreements and other records pertaining to the leased aircraft and engines, or (ii) rank in priority to the interests of any aircraft lessor or financier as described in paragraphs 70 and 71 of the First Woodward Affidavit.
46. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or pari passu with, the Administration Charge, the Interim Lender’s Charge, the Directors’ Charge or the KERP Charge unless the Applicants also obtain the prior written consent of the Monitor, the Interim Lender, and the beneficiaries of the Administration Charge, KERP Charge, and the Directors’ Charge, or further order of this Court.
47. The Administration Charge, the Commitment Letter, the Definitive Documents, and the Interim Lender’s Charge shall not be rendered invalid or unenforceable and the rights and

remedies of the chargees entitled to the benefit of the Charges (collectively, the “Chargees”) and/or the Interim Lender thereunder shall not otherwise be limited or impaired in any way by:

- (a) the pendency of these proceedings and the declarations of insolvency made in this Order;
- (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications;
- (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA;
- (d) the provisions of any federal or provincial statutes; or
- (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “Agreement”) that binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:
 - (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof, including the Commitment Letter or the Definitive Documents, shall create or be deemed to constitute a new breach by the Applicants of any Agreement to which they are a party;
 - (ii) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges, the Applicants entering into the Commitment Letter, or the execution, delivery or performance of the Definitive Documents; and
 - (iii) the payments made by the Applicants pursuant to this Order, including the Commitment Letter or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances,

transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

ALLOCATION

48. Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the Charges amongst the various assets comprising the Property.

SERVICE AND NOTICE

49. The Monitor shall (i) without delay, publish in the Calgary Herald and the Globe and Mail a notice containing the information prescribed under the CCAA; (ii) within five (5) days after the date of this Order (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than \$1,000 and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with section 23(1)(a) of the CCAA and the regulations made thereunder.
50. The Monitor shall establish a case website in respect of the within proceedings at <http://cfcanada.fticonsulting.com/lynxair>.

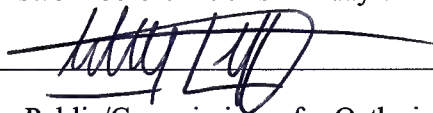
GENERAL

51. The Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
52. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Monitor will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Monitor's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.

53. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager or a trustee in bankruptcy of the Applicant, the Business or the Property.
54. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.
55. Each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Monitor is authorized and empowered to act as a representative in respect of the within proceeding for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
56. Any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
57. This Order and all of its provisions are effective as of 12:01 a.m. Mountain Standard Time on the date of this Order.


Justice of the Court of King's Bench of Alberta

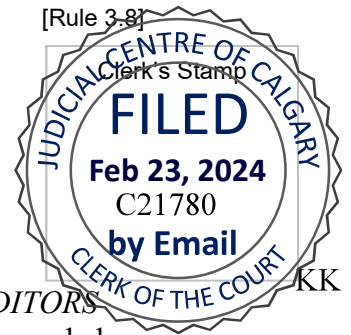
This is **Exhibit "F"** to the Affidavit of Michael Woodward
sworn before me this 31st day of May 2024.

A handwritten signature in black ink, appearing to read 'Ashley Light', written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

ASHLEY ELIZABETH LIGHT
Student-at-Law

Form 7
[Rule 3-8]



COURT FILE NUMBER 2401-02664
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, as amended

AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF LYNX AIR HOLDINGS CORPORATION
and 1263343 ALBERTA INC. dba LYNX AIR

DOCUMENT **AFFIDAVIT OF MICHAEL WOODWARD**

ADDRESS FOR **OSLER, HOSKIN & HARCOURT LLP**
SERVICE AND Barristers & Solicitors
CONTACT Brookfield Place, Suite 2700
INFORMATION OF 225 6 Ave SW
PARTY FILING THIS Calgary, AB T2P 1N2
DOCUMENT

Solicitors: Randal Van de Mosselaer / Julie Treleaven
Telephone: (403) 260-7000
Facsimile: (403) 260-7024
Email: RVandemosselaer@osler.com / JTreleaven@osler.com
File Number: 1246361

AFFIDAVIT OF MICHAEL WOODWARD
SWORN FEBRUARY 22, 2024

I, Michael Woodward, of the City of Calgary, in the Province of Alberta, **MAKE OATH**
AND SAY THAT:

1. I am the Chief Executive Officer and Director of my personal company that has been contracted to provide the services of Interim Chief Financial Officer (“**Interim Contractor CFO**”) to Lynx Air (as that term is defined below). I have been the Interim Contractor CFO of Lynx Air since March of 2023, and since that time I have been responsible for all financial-related

aspects of Lynx Air's business. Prior to this role, I served as Chief Financial Officer of Campus Energy Partners, an energy infrastructure and supply company, and as a Vice President of BMO Capital Markets. I hold a Bachelor of Commerce in Accounting from the University of British Columbia and have obtained Chartered Accountant and Chartered Financial Analyst designations.

2. As such, I have personal knowledge of the matters to which I depose in this Affidavit, except where stated to be based on information and belief, in which case I have stated the source of my information and, in all such cases, I believe such information to be true. In preparing this Affidavit, I consulted with the Applicants' (as that term is defined below) management teams and advisors and reviewed relevant documents and information concerning the Applicants' operations and business and financial affairs.

3. I swear this Affidavit in support of an application by the Applicants for an Order (the "**Initial Order**"):

- (a) declaring that the Applicants are companies to which the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("**CCAA**") applies;
- (b) authorizing the Applicants to remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**") and continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property;
- (c) entitling the Applicants to make payment of all obligations owing in respect of employee wages and benefits;

- (d) entitling the Applicants to pay reasonable expenses incurred by them in operating the Business in the ordinary course, including making payment of obligations owing in respect of goods and services supplied to the Applicants prior to the date of the Initial Order, subject to the consent of the Monitor (as defined herein);
- (e) staying, for an initial period of not more than ten (10) days (the “**Stay Period**”), all proceedings and remedies taken or that might be taken in respect of the Applicants, the Business, or the Property, except as otherwise set forth in the Initial Order or otherwise permitted by law;
- (f) preventing any Person (as defined in the Initial Order) from accelerating performance of any rights in respect of the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Honourable Court;
- (g) restraining any Person from interfering with the supply of goods or services to the Applicants;
- (h) staying all proceedings and remedies taken or that might be taken in respect of claims against the directors or officers of the Applicants that relate to liability of such Persons in their capacity as directors or officers of the Applicants, except as otherwise set forth in the Initial Order or otherwise permitted by law;
- (i) appointing FTI Consulting Canada Inc. (“**FTI**”) as Monitor of the Applicants in these proceedings;
- (j) authorizing the Applicants to pay all reasonable fees and disbursements of its counsel, the Monitor and the Monitor’s counsel;

- (k) granting a first ranking Administration Charge (as defined below) in the amount of CAD\$500,000;
- (l) authorizing and empowering the Applicants to obtain and borrow under a credit facility (the “**Interim Lending Facility**”) from Indigo Northern Ventures LP (the “**Interim Lender**” or “**Indigo**”) in order to finance the Applicants’ working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under the Interim Lending Facility:
 - (i) shall not exceed CAD\$1,000,000 during the initial Stay Period unless permitted by further order of this Court; and
 - (ii) shall not exceed an amount to be negotiated and approved by the Court during any subsequent stay period as may be ordered by the Court unless permitted by further order of this Court;
- (m) directing that such Interim Lending Facility shall be on the terms and subject to the conditions set forth in the term sheet between the Applicants and the Interim Lender dated as of February 21, 2024 (the “**Interim Lending Term Sheet**”) and any definitive documents subsequently negotiated between the Applicants and the Interim Lender;
- (n) granting to the Interim Lender a second ranking charge (the “**Interim Lender’s Charge**”) on the Property to secure all obligations under the Interim Lending Term Sheet incurred on or after the date of this Initial Order which charge shall not exceed the aggregate amount advanced on or after the date of this Initial Order under the Interim Lending Term Sheet;

- (o) granting a third ranking charge to the Applicants' directors and officers as security for any obligations and liabilities they may incur as directors and officers of the Applicants after February 22, 2024, up to the maximum amount of CAD\$500,000 (the "**D&O Charge**");
- (p) declaring that the Administration Charge is a priority charge that ranks ahead of any and all charges, security interests, liens, trusts, deemed trusts and encumbrances against the Property, including liens and trusts created by federal and provincial legislation, and that the Administration Charge, Interim Lender's Charge and D&O Charge rank, as between themselves, in the following order of priority:
 - (i) First, the Administration Charge;
 - (ii) Second, the Interim Lender's Charge; and
 - (iii) Third, the D&O Charge;
- (q) scheduling a comeback application for hearing at 10:00 a.m. on February 28, 2024; and
- (r) such further and other relief as counsel may request and this Honourable Court may grant.

PART I - OVERVIEW

4. The Applicants operate a Canadian ultra-low-cost carrier ("**ULCC**") under the trade name "Lynx Air", having operated its business out of Calgary, Alberta and offered flights since April 2022. Lynx Air operates a uniform fleet of nine Boeing Model 737-8 aircraft ("**Boeing 737 MAX 8 aircraft**") at high utilization rates, in order to provide fares at significant discounts to prevailing market fares. The Applicants also use low operating costs and an unbundled service to further

lower their base fares below those being offered by legacy carriers. This in turn stimulates more demand and increases growth in a virtuous circle of benefits for Lynx Air.

5. However, as a true ULCC, the Applicants' revenue performance is highly sensitive to market fluctuations in jet fuel pricing and passenger demand, as well as evolving factors within Canada's competitive aviation landscape.

6. As has been well publicized, the price of jet fuel has significantly increased since 2019 and continues to increase in a sustained and upward spiral, and is projected to continue to increase through the first quarter of 2024. According to Statistics Canada, jet fuel costs increased by 62% in December 2022 as compared with December 2019.¹ At the same time, passenger demand fell below 2019 averages (largely due to COVID-19 travel restrictions and the lingering effects thereof): the number of passenger-kilometres flown by major Canadian airlines in December 2022 remained 12% below the December 2019 level.² For a ULCC like Lynx Air, these fuel price increases and reduced passenger demand, combined with a competitive aviation landscape have proved disastrous to the Applicants' ability to generate sufficient revenue to sustain a business in what is effectively a duopoly market in Canada.

7. In large part due to COVID-19 related travel restrictions imposed in March of 2020 and the grounding of the Boeing 737 MAX 8 aircraft in March of 2019, Lynx Air's first inaugural flight was delayed from the first quarter of 2019 until April of 2022. As such, the Applicants had to sustain administrative and operating costs without any significant revenue for three years beyond what had originally been planned.

¹ Statistics Canada, Jet fuel production and prices have taken off in tandem with air travel (June 2023), online: Statistics Canada <<https://www.statcan.gc.ca/o1/en/plus/3944-jet-fuel-production-and-prices-have-taken-tandem-air-travel>>.

² *Ibid.*

8. For these reasons, while the Applicants have a valuable and viable business, Lynx Air has been met with significant unforeseeable challenges to its business since its inception. As a result, Lynx Air is currently insolvent and has insufficient cash reserves to allow it to continue to fund its current ongoing operations. In addition, certain critical service suppliers have recently elected to take enforcement actions, which, if pursued, would jeopardize the Applicants' ongoing operations, and would likely result in the Applicants' operations being shut down in a chaotic and haphazard manner.

9. For these reasons, Lynx Air has decided that the only option available to it to preserve value in its assets is to urgently obtain protection under the CCAA to give it reasonable time to wind down its business operations in an orderly fashion, and to provide time for the Applicants to apply for and conduct a sales and investment solicitation process (if necessary), identify and assess potential transactions, and review other strategic alternatives that may be available to maximize the value of the Applicants' business for all their stakeholders.

PART II – THE APPLICANTS' BUSINESS

A. Corporate Structure

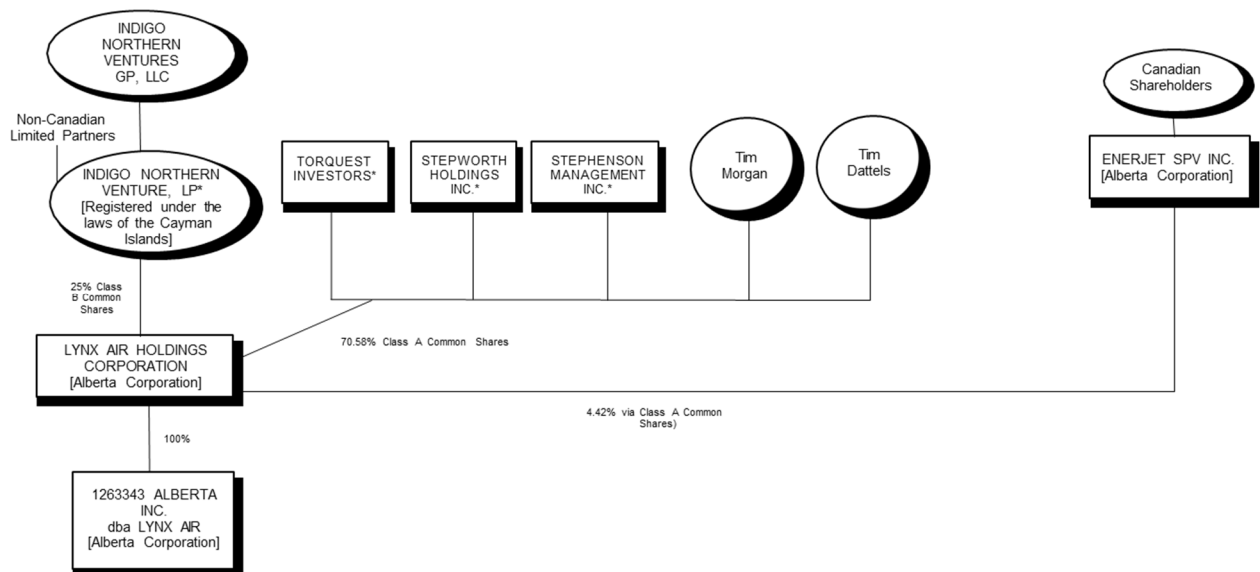
10. The Applicant Lynx Air Holdings Corporation (formerly named "Enerjet Holdco Inc.") ("**Lynx Holdco**") is a corporation incorporated under the laws of the Province of Alberta. Lynx Holdco was incorporated under the Alberta *Business Corporations Act* on December 17, 2018, and changed its name to Lynx Air Holdings Corporation on November 16, 2021.

11. Lynx Holdco is the 100% parent of the Applicant 1263343 Alberta Inc. ("**Lynx Opco**" and together with Lynx Holdco, the "**Applicants**" or "**Lynx Air**"), a corporation incorporated under the laws of the Province of Alberta. Both Lynx Holdco and Lynx Opco have registered offices at

1400, 350 – 7 Avenue SW, Calgary, Alberta, as well as the same two directors: Greg Melchin and Thomas Morgan. Additionally, the Applicants have the same three officers (or persons operating in the role of officers): myself, Vijay Bathija, acting as Chief Commercial Officer, and James Sullivan, acting as Chief Operating Officer and Interim Chief Executive Officer. Lynx Opco is the operating entity of Lynx Air, and is the Declarant of and operates under the registered trade name “Lynx Air”.

12. Lynx Holdco is in turn owned by seven entities, none of which are applicants in these CCAA proceedings: (a) Indigo, by its general partner Indigo Northern Ventures GP, LLC, (b) Torquest Investors, Stepworth Holdings Inc., Stephenson Management Inc., Tim Morgan, and Tim Dattels (collectively, the “**Canadian Investors**”); and (c) Enerjet SPV Inc. (“**EnerJet**”). The Canadian Investors hold 25,140,621 (70.58%) of the Class A Common Shares of Lynx Air, EnerJet holds 1,575,190 (4.42%) Class A Common Shares of Lynx Air, and Indigo holds 8,905,252 (25%) Class B Common Shares of Lynx Air.

13. A corporate chart detailing the structure of the Applicants as of February 2024 is reproduced below:



14. Copies of Alberta corporate searches for each of the Applicants are attached hereto as **Exhibit “1”**. A copy of the Alberta trade name search for “Lynx Air” is attached hereto as **Exhibit “2”**.

B. Financial Position

15. The Applicants’ financial reporting is completed on a consolidated basis in accordance with IFRS Accounting Standards. A copy of the Applicants’ unaudited consolidated financial statement for the years ended 2021 and 2022, and a draft, unaudited consolidated financial statement for the twelve months ended December 31, 2023 (the “**2023 Financial Statement**”), are attached hereto as **Exhibits “3”** and “**4**”, respectively. The 2023 Financial Statement is summarized below.

(a) Assets

16. As at December 31, 2023, the Applicants had total assets having a book value of approximately CAD\$429,091,000, broken down as follows:

Current Assets: \$53,331,000	
<i>(\$CAD 000’s)</i>	
Cash and Cash Equivalents	\$2,519
Restricted Cash	\$7,945
Accounts Receivables	\$37,655
Prepaid Expenses	\$4,092
Inventory	\$1,120
Non-Current Assets: \$375,760,000	
<i>(\$CAD 000’s)</i>	
Pre-delivery Payments and Lease Deposits	\$19,469
Property and equipment (net)	\$345,145
Deferred Purchase Incentive Credit	(\$22,711)
Intangible Assets	\$2,807
Goodwill	\$4,114
Long-term Receivables	\$9,427
Maintenance Reserves	\$17,462
Due from Enerjet SPV Inc.	\$47

(b) Liabilities

17. As at December 31, 2023, the Applicants had total liabilities of approximately CAD\$599,857,000, broken down as follows:

Current Liabilities: \$126,921,000 <i>(\$CAD 000's)</i>	
Accounts Payable and Accrued Liabilities	\$62,383
Deferred Revenue	\$20,635
Convertible Notes Payable	\$22,819
Current Portion Lease Liability	\$21,084
Non-Current Liabilities: \$472,936,000 <i>(\$CAD 000's)</i>	
Convertible Notes	\$93,521
Deferred Tax Liability	\$24,491
Long-Term Lease Liability	\$354,924

(c) Shareholder Equity

18. As at December 31, 2023, the shareholders' equity in the Applicants was recorded at negative CAD\$170,766,000.

C. Employees/Consultants

(a) Employees

19. As at December 31, 2023, Lynx Air employed approximately 500 employees. The geographic distribution of Lynx Air's employees is as follows:

Province	Number of Employees
Alberta	390
Ontario	110
Total (Canada)	500

20. Some of the Applicants' employees have recently elected to unionize: the pilots under the Air Line Pilots Association, International ("ALPA"), and the cabin crew employees under the Canadian Union of Public Employees ("CUPE"). On June 3, 2023, the Canada Industrial Relations Board ("CIRB") certified ALPA as the bargaining representative for all pilots of Lynx Air. Lynx Air and ALPA are currently in the process of negotiating their first collective bargaining agreement. On February 7, 2024, the CIRB certified CUPE as the bargaining representative for all cabin crew of Lynx Air. As this certification just occurred, neither party has served a notice to commence collective bargaining. As such, no collective bargaining agreements for the Applicants' employees currently exist.

21. Lynx Air maintains benefit plans for their employees providing medical, dental, prescription, and vision benefits, and life insurance policies. Lynx Air also sponsors a pension plan for all employees, and a stock option plan covering various Directors, Officers, and former Officers. As at the date of this Affidavit, Lynx Air has no outstanding payroll deductions, Canadian Pension Plan payments or Employment Insurance premiums owing to the Crown.

22. The Applicants also maintain Directors' and Officers' liability insurance coverage which is provided as part of the executive liability coverage programme maintained by Zurich Insurance Company Ltd. (the "**D&O Insurance Policy**"). The D&O Insurance Policy provides for Loss (as that term is defined in the D&O Insurance Policy) of up to USD\$10,000,000 and expires on October 14, 2024. The Applicants also maintain Excess Private Company Directors and Officers Liability with Markel Canada Limited in an aggregate amount of USD\$5,000,000, and with Arthur J. Gallagher Canada Limited in an aggregate amount of USD\$5,000,000 (collectively, the "**Excess Insurance Policies**"). The Excess Insurance Policies expire on October 14, 2024. Attached hereto as **Exhibit "5"** and **"6"** are copies of the D&O Insurance Policy and the Excess Insurance Policies.

23. In addition, on September 20, 2023, Lynx Holdco established a CAD\$2,000,000 irrevocable trust (the “**Lynx Air D&O Trust**”) with TSX Trust Company as trustee, and Lynx Air’s Directors and Officers as beneficiaries. A copy of the Trust Indenture (the “**D&O Trust Indenture**”) for the Lynx Air D&O Trust is attached hereto as **Exhibit “7”**. The Lynx Air D&O Trust was established to provide financial support for the defence of Lynx Air’s Directors and Officers against Liability Claims (as that term is defined in the D&O Trust Indenture) and for the payment of Liability Claims, to the extent that the D&O Insurance Policy, for any reason, does not do so and to maintain Directors’ and Officers’ insurance through the payment of premiums or other payments, if Lynx Air fails to do so.

(b) Consultants

24. As at February 1, 2024, Lynx Air has 19 independent contractors, retained through a number of holding corporations or agencies:

- (a) Amy Wheatley, Program and Policy Specialist;
- (b) Bob Alder, SIM Instructor;
- (c) Bradely Thomann, Consultant, Operations Advisor;
- (d) C. Ben Atkins, SIM Instructor;
- (e) George Acs, SIM Instructor;
- (f) Gerald Murphy, SIM Instructor;
- (g) Greg Mardon, IT Contractor;
- (h) Heather McKinnon, Interim Controller;

- (i) Jay Simacio, Senior Accountant;
- (j) Juan Carlos Flores Cortez, Technical Operations Specialist;
- (k) Kerwin Calder, Accounts Payable Analyst;
- (l) Larissa Ha, Payroll Analyst;
- (m) Michael Ritchie, SIM Instructor;
- (n) Myself;
- (o) Oluwatosin Harrison, Revenue Analyst;
- (p) Paul Lung Ip, SIM Instructor;
- (q) Rajarshi Ray, Director of Revenue Management;
- (r) Roger McIntosh, Technical Operations Consultant; and
- (s) Zeeshan Joseph, Financial Analyst.

D. Operations

25. As noted above, Lynx Air operates on a ULCC model, pursuant to which the Applicants maintain low operating costs to deliver fares at a significant discount to prevailing market fares. This in turn creates new demand from the price sensitive consumer segment and stimulates market growth.

26. As a ULCC, the Applicants follow significant operational and strategic diligence. Specifically, the Applicants: (i) focus on efficient use of their assets (aircraft, facilities, gates and employees); (ii) schedule aircraft to operate at least 25% more than legacy airlines, (iii) utilize

rapid turnarounds and minimize facilities overhead to create a structural cost advantage; (iv) selectively outsource services that can be most efficiently performed by third parties; and (v) maximize direct distribution channels and avoid third-party distribution agreements.

27. Due to multi-year delays caused by the COVID-19 pandemic and the Boeing 737 MAX 8 aircraft grounding (discussed more fully below), Lynx Air did not have its inaugural flight until April 7, 2022 (roughly 3 years after the originally planned inaugural flight date). However, Lynx Air now flies nine Boeing 737 MAX 8 aircraft to 18 destinations, namely:

- (a) 11 destinations in Canada:
 - (i) Calgary, Alberta;
 - (ii) Edmonton, Alberta;
 - (iii) Fredericton, New Brunswick;
 - (iv) Halifax, Nova Scotia;
 - (v) Hamilton, Ontario;
 - (vi) Montreal, Quebec;
 - (vii) St. Johns, Newfoundland and Labrador;
 - (viii) Toronto, Ontario;
 - (ix) Vancouver, British Columbia;
 - (x) Victoria, British Columbia; and
 - (xi) Winnipeg, Manitoba;

- (b) 6 destinations in the United States of America:
 - (i) Las Vegas, Nevada;
 - (ii) Fort Myers, Florida;
 - (iii) Los Angeles, California;
 - (iv) Orlando, Florida;
 - (v) Phoenix, Arizona; and
 - (vi) Tampa, Florida;

- (c) 1 destination in Mexico:
 - (i) Cancun, Mexico.

28. The Applicants' operations are primarily concentrated in Toronto and Calgary. However, the Applicants have airline partnership agreements with each respective destination's airport. These agreements contractually stipulate the obligations of both parties and require Lynx Air to make certain payments to each airport, such as aeronautical fees and charges, airport improvement fees, and other terms and conditions integral to the aeronautical activity at each airport. Lynx Air also has a variety of agreements for services in each location to which it flies, including for ground handling, de-icing, and other on-ground services. Two such agreements include: (i) a Comprehensive Fleet Support Agreement with Delta Airlines, Inc. ("**Delta**") dated September 20, 2022 (the "**CFS Agreement**") pursuant to which Delta provides all of Lynx Air's technical engineering and airworthiness support, line maintenance services, consumables and expendables supply, logistics and management services, warehousing and warranty management services, and

component maintenance, repair, pooling, modification and logistics services; and (ii) an agreement with the Calgary Glycol Facilities Corporation (“CGFC” and the “CGFC Agreement”) providing for de-icing services at the Calgary International Airport.

29. On February 2, 2024, Lynx Air received a notice of default from the Aeroports de Montreal (“ADM”) in the amount of CAD\$1,634,479.86 relating to outstanding airport improvement fees. However, on February 8, 2024, a payment schedule was agreed to between Lynx Air and ADM, such that the outstanding amounts are now payable by Lynx Air in four installments ending on April 1, 2024 (the “ADM Payment Agreement”). Attached as **Exhibit “8”** is a copy of ADM Payment Agreement.

30. On February 16, 2024, Lynx Air received a notice of default from the Greater Toronto Airports Authority (“GTAA”) in the amount of CAD\$2,441,284.71 relating to outstanding aeronautical fees and charges and airport improvement fees in respect of its aeronautical activity at Toronto Pearson (the “GTAA Notice of Default”). Pursuant to the GTAA Notice of Default, Lynx Air must cure the outstanding amount by February 21, 2024. Attached as **Exhibit “9”** is a copy of the GTAA Notice of Default.

31. On February 17, 2024, Lynx Air received a notice of default from Delta in the amount of USD\$3,331,730.57 (of which USD\$2,195,478.52 is overdue) with respect to payments due under the CFS Agreement (the “Delta Notice of Default”). Pursuant to the Delta Notice of Default, Lynx Air must cure the outstanding payment within 5 business days of issuance of the Delta Notice of Default, failing which Delta would have the right to suspend services under the CFS Agreement. Attached as **Exhibit “10”** is a copy of the Delta Notice of Default.

32. On February 1, 2024, Lynx Air received a notice of default from the CGFC in the amount of CAD\$351,688.44, relating to outstanding amounts under the CGFC Agreement (the “CGFC

Notice of Default”). Pursuant to the CGFC Notice of Default, Lynx Air had to cure the outstanding payment by February 12, 2024. As at the date of this Affidavit, Lynx Air has paid CAD\$175,844.20 to CGFC.

33. Lynx Air does not have sufficient cash to allow it to cure the defaults under the CFS Agreement, the GTAA airline partnership agreement or the CGFC Agreement. In lieu of payment, the cure counterparties to these agreements will have the ability stop providing services under the agreements. Specifically, Delta will stop performing under the CFS Agreement, with the result that Lynx Air’s aircraft will be stranded due to outstanding maintenance issues, including maintenance which is necessary for the daily operation of aircraft. Similarly, the GTAA will obtain the ability to seize Lynx Air’s aircraft to enforce its security, and to prevent the airline from operating out of Toronto, which is the hub for approximately 30% of Lynx Air’s business. The withdrawal of services under these two agreements alone would effectively shut down Lynx Air’s business.

(a) Cash Management System

34. The Applicants maintain accounts at Canadian financial institutions, as follows:

- (a) *Depository Accounts:* The Applicants maintain two (2) US and three (3) Canadian depository accounts at ATB Financial (“**ATB**”), which is the central account for the Applicants and operates as the primary receipt and disbursement point for funds in connection with all of the Applicants’ operations.
- (b) *Cash Collateral – Letter of Credit Accounts:* As of December 31, 2023, Lynx Air has 13 letters of credit totalling CAD\$5,876,000 issued by ATB for the benefit of various creditors and vendors. These letters of credit are fully secured by cash

deposits held as cash collateral in eight (8) USD and seven (7) CAD Guaranteed Investment Certificates at ATB.

- (c) *Cash Collateral – E-Transfer Account*: The Applicants maintain one (1) bank account at the Bank of Nova Scotia (“**Scotiabank**”) used to send electronic transfers for passenger compensation when such compensation is required to be paid pursuant to the *Air Passenger Protection Regulations* (SOR/2019-150).
- (d) *Cash Collateral – Mexican Account*: The Applicants maintain one (1) Mexican peso depository account at Scotiabank. This is used to pay Mexican tax.

(b) Canadian Foreign Ownership Restrictions on Airlines

35. Canadian foreign ownership restrictions on airlines are governed by the *Canada Transportation Act*, S.C. 1996, c. 10 (the “CTA”), and overseen by the Canadian Transportation Agency. The CTA limits foreign ownership and control of Canadian air services to ensure that the industry remains predominantly Canadian and to protect national security interests.

36. To obtain and maintain a license to operate a Canadian domestic air service, the air license holder must meet the definition of “Canadian” as set out in section 55(1) of the CTA:

- (a) be a Canadian citizen or a permanent resident as defined in subsection 2(1) of the Immigration and Refugee Protection Act,
- (b) be a government in Canada or an agent or mandatary of such a government, or
- (c) be a corporation or entity that is incorporated or formed under the laws of Canada or a province, that is controlled in fact (within the meaning of the CTA) by Canadians and of which at least 51% of the voting interests are owned and controlled by Canadians and where
 - (i) no more than 25% of the voting interests are owned directly or indirectly by any single non-Canadian, either individually or in affiliation with another person, and
 - (ii) no more than 25% of the voting interests are owned directly or indirectly by one or more non-Canadians authorized to provide an air service in any

jurisdiction, either individually or in affiliation with another person;
(Canadien).

37. As such, Lynx Air must: (i) be incorporated under the laws of Canada, (ii) have 51% of its voting interest owned and controlled by Canadians; and (iii) be controlled in fact by Canadians.

PART III – CAPITAL STRUCTURE AND INDEBTEDNESS

A. Assets

38. As at December 31, 2023, the Applicants had total assets with a book value of approximately CAD\$429,091,000, including:

- (a) property and equipment of CAD\$345,145,000 comprised primarily of capitalized leases of which there are nine leases of Boeing 737 MAX 8 aircraft and three leases of CFM Leap 1-B25 spare engines (collectively, the “**Aircraft Leases**”);
- (b) security deposits of CAD\$14,019,000 consisting of two- or three-months’ rent owed to each of the engine and aircraft lessors (reflected on the balance sheet as Pre-Delivery Payments and Lease Deposits and Property and Equipment); and
- (c) long-term deposits of CAD\$2,732,000 consisting of amounts held as cash security by vendors, lessors (reflected on the balance sheet as Pre-Delivery Payments and Lease Deposits).

39. Each of these categories of assets will be discussed more fully below.

Property and Equipment

40. On October 18, 2015, Lynx Opco entered into a purchase agreement with an aircraft manufacturer (the “**Aircraft Purchase Agreement**”). Although the Aircraft Purchase Agreement

is not reflected in the 2023 Financial Statement, the Aircraft Purchase Agreement has considerable value in the global aviation market.

41. Pursuant to the Boeing Purchase Agreement, Lynx Opco had the right to purchase forty aircraft and lease six aircraft, to be delivered and paid for over six years (in addition to certain advance payments), such advance payments to be delivered at: (a) signing of the Aircraft Purchase Agreement, (b) 24 months prior to delivery, and (c) 18, 12, and 10 months prior to delivery.

42. Nine supplemental agreements relating to the Aircraft Purchase Agreement were subsequently entered into between the aircraft manufacturer and Lynx Opco, dated February 6, 2017, August 31, 2018, April 22, 2021, August 31, 2021, November 10, 2021, December 8, 2021, February 11, 2022, March 2, 2022, and August 17, 2023 (collectively, the “**Aircraft Supplemental Agreements**”).

43. Due to regulatory grounding of the Boeing 737 MAX 8 aircraft by Transport Canada Civil Aviation (“**TCCA**”) beginning on March 13, 2019 (discussed more fully below at paragraph 90), Lynx Opco was unable to take delivery of any aircraft which Lynx Air intended to purchase under the Aircraft Purchase Agreement. As such, the Aircraft Purchase Agreement’s delivery and payment schedule was revised to accommodate the Applicants’ re-entry into airspace, once the TCCA order released the Boeing 737 MAX 8 aircraft.

44. As of the date of this Affidavit, the Applicants have leased nine Boeing 737 MAX 8 aircraft; thirty-one Boeing 737 MAX 8 aircraft remain to be delivered under the Aircraft Purchase Agreement. The Applicants’ property and equipment is therefore comprised primarily of the Aircraft Leases.

45. The Aircraft Purchase Agreement and the Aircraft Supplemental Agreements contain confidential and commercially sensitive business information, the public disclosure of which would adversely affect and be prejudicial to the legitimate business interests of the Applicants and the counterparty to those agreements. For this reason, the Applicants are subject to non-disclosure obligations found within the Aircraft Purchase Agreement, prohibiting public disclosure of these agreements. As a result, copies of those agreements, along with a detailed discussion of the delivery schedule and purchase order dynamics, are attached to my Confidential Supplemental Affidavit which is sworn concurrent with this Affidavit, and the Applicants will be seeking a Restricted Court Access Order with respect to my Confidential Supplemental Affidavit.

Security Deposits

46. The security deposits are composed of pre-payments of rent to Lynx Air's lessors (as discussed in further detail below).

Long-Term Deposits

47. The long-term deposits consist of amounts provided to counterparties to reduce or eliminate credit while concurrently doing business with Lynx Air. This includes amounts provided to fuel providers, airports, real estate lessors, and others.

B. Liabilities

48. As at December 31, 2023, the Applicants had total liabilities of approximately CAD\$599,857,000, including:

- (a) secured obligations in an aggregate principal amount of CAD\$93,521,000 represented by promissory notes issued to Indigo pursuant to:

- (i) a Note Purchase Agreement dated December 20, 2018, as amended by Amending Agreement No. 1 dated June 30, 2023, between Lynx Holdco, as issuer, Lynx Opco as guarantor, and Indigo, as noteholder (the “**Note Purchase Agreement**”), a copy of which is attached hereto as **Exhibit “11”**;
- (ii) a Bridge Note Purchase Agreement dated February 24, 2023 as amended by Amending Agreement No. 1 dated January 12, 2024, between Lynx Holdco, as issuer, Lynx Opco as guarantor, and Indigo, as noteholder (the “**Bridge Note Purchase Agreement**”), a copy of which is attached hereto as **Exhibit “12”**;
- (iii) a Second Bridge Note Purchase Agreement dated October 26, 2023 as amended by Amending Agreement No. 1 dated January 12, 2024, between Lynx Holdco, as issuer, Lynx Opco as guarantor, and Indigo, as noteholder (the “**Second Bridge Note Purchase Agreement**”), a copy of which attached hereto as **Exhibit “13”**;
- (iv) a Third Bridge Note Purchase Agreement dated January 12, 2024 between Lynx Holdco, as issuer, Lynx Opco as guarantor, and Indigo, as noteholder (the “**Third Bridge Note Purchase Agreement**”), a copy of which attached hereto as **Exhibit “14”**;
- (v) a Fourth Bridge Note Purchase Agreement dated February 2, 2024 between Lynx Holdco, as issuer, Lynx Opco as guarantor, and Indigo, as noteholder (the “**Fourth Bridge Note Purchase Agreement**”), a copy of which attached hereto as **Exhibit “15”**;

- (vi) a Fifth Bridge Note Purchase Agreement dated February 7, 2024 between Lynx Holdco, as issuer, Lynx Opco as guarantor, and Indigo, as noteholder (the “**Fifth Bridge Note Purchase Agreement**”), a copy of which attached hereto as **Exhibit “16”**;

- (b) secured obligations of approximately CAD\$344,828,000 comprised of the Aircraft Leases;

- (c) secured obligations of CAD\$5,995,000 pursuant to a series of Assignment of Deposit Certificates (the “**Assignment Certificates**”) between ATB and Lynx Opco dated between May 2020 and November 2023 to stand as security for Letters of Credit and the credit card issued by ATB, copies of which Assignment Certificates are attached hereto as **Exhibit “17”**;

- (d) unsecured obligations in an aggregate amount of CAD\$72,375,279.00, comprised of:
 - (i) a tax payment arrangement with the Canada Revenue Agency (“**CRA**”) regarding account arrears (the “**CRA Arrears**”); and
 - (ii) obligations to trade creditors.

Indigo Promissory Notes

49. On start-up of Lynx Air, Indigo provided debt financing (represented by the Initial Notes, as that term is defined below) issued by Lynx Air to Indigo in the amount of CAD\$71,242,031. As discussed further below, the Applicants’ encountered various unforeseen events which resulted in a shortfall in projected revenue, such that revenues being generated from operations were

insufficient to sustain operations. Consequently, in 2023 and 2024 Indigo provided additional debt financing to the Applicants, in the amounts of CAD\$22,279,375 (provided in February, March, and October 2023) and CAD\$20,147,000 (provided in January and February 2024). These advances were also documented through convertible promissory notes issued by the Applicants to Indigo pursuant to the Note Purchase Agreement, the Bridge Note Purchase Agreement, the Second Bridge Note Purchase Agreement, the Third Bridge Note Purchase Agreement, the Fourth Bridge Note Purchase Agreement, and the Fifth Bridge Note Purchase Agreement.

(i) The Note Purchase Agreement

50. Pursuant to the Note Purchase Agreement, Indigo purchased convertible promissory notes (the “**Initial Notes**”) in the amount of USD\$54,100,000 (which, converted to CAD, is the \$71,242.031 referenced in the preceding paragraph). The Initial Notes bear non-convertible interest at an annual rate of 10%, payable annually in arrears in each year. The Initial Notes have a conversion price of \$1.00.

51. A \$1,000,000 fee related to the issuance of the Initial Notes was capitalized at inception and deducted from the purchase price prior to the transfer of the net proceeds to Lynx Holdco.

52. On June 30, 2023, Indigo accepted the Applicants request to defer the Initial Notes’ interest, as stipulated in the Note Purchase Agreement (the “**Deferral Agreement**”), pursuant to which Indigo granted the Applicants a deferral of all interest payments under the Initial Notes until the Fifth Anniversary (as that term is defined in the Note Purchase Agreement). A copy of the Deferral Agreement is attached hereto as **Exhibit “18”**.

53. Pursuant to the Note Purchase Agreement, the Applicants issued the Initial Notes on: (i) December 20, 2018 in the amount of CAD\$12,179,529; (ii) May 24, 2019 in the amount of

CAD\$7,295,806; (iii) January 27, 2022 in the amount of CAD\$10,149,603; (iv) April 14, 2022 in the amount of CAD\$13,532,804; (v) August 8, 2022 in the amount of CAD\$6,766,402; (vi) October 14, 2022 in the amount of CAD\$3,383,200; (vii) November 15, 2022 in the amount of CAD\$8,119,682; and (viii) December 13, 2022 in the amount of CAD\$9,815,005. Copies of the Initial Notes are attached hereto as **Exhibit “19”**.

54. All obligations of Lynx Holdco under the Note Purchase Agreement are guaranteed by Lynx Opco, pursuant to a Guarantee between Indigo and Lynx Opco dated October 28, 2021 (the “**Note Guarantee**”) and are also secured against all present and after-acquired personal property of the Applicants pursuant to a General Security Agreement dated October 28, 2021 (the “**Note General Security Agreement**”). Copies of the Note Guarantee and the Note General Security Agreement are attached hereto as **Exhibit “20”** and “**21**”.

55. As at December 31, 2023, the Initial Notes have a principal and accrued and outstanding interest amount of CAD\$91,489,000. The Initial Notes matured on December 20, 2023. The Applicants do not have sufficient resources to redeem the Initial Notes.

(ii) The Bridge Note Purchase Agreement

56. Pursuant to the Bridge Note Purchase Agreement, Indigo purchased convertible promissory notes (the “**Bridge Notes**”) up to an equivalent amount in Canadian Dollars of USD\$5,250,000 and was granted the ability to purchase subsequent promissory notes up to an equivalent amount of USD\$9,000,000. The Bridge Notes bear interest at an annual rate of 20%, convertible and payable semi-annually in arrears on August 23 and February 23 in each year. The Bridge Notes have a conversion price of \$0.25.

57. The Applicants issued two Bridge Notes pursuant to the Bridge Note Purchase Agreement: one on February 24, 2023, and the second on March 10, 2023, in the principal amounts of CAD\$7,110,000 CAD and CAD\$5,169,375, respectively. Interest accrued on these notes at 20%, and each of these notes mature on the earlier of the consummation of a transaction that Lynx Air is in the process of negotiating and June 30, 2024. As at December 31, 2023, the total amount outstanding under the Bridge Notes are (respectively) approximately CAD\$8,415,000 and CAD\$6,072,000. Copies of the Bridge Notes are attached hereto as **Exhibit “22”**.

58. All obligations of Lynx Holdco under the Bridge Note Purchase Agreement are guaranteed by Lynx Opco pursuant to a Guarantee between Indigo and Lynx Opco dated February 24, 2023 (the “**First Bridge Note Guarantee**”) and are also secured against all present and after-acquired personal property of the Applicants pursuant to a General Security Agreement dated February 24, 2023 (the “**First Bridge Note General Security Agreement**”). Copies of the First Bridge Note Guarantee and the First Bridge Note General Security Agreement are attached hereto as **Exhibit “23”** and **“24”**.

(iii) The Second Bridge Note Purchase Agreement

59. Pursuant to the Second Bridge Note Purchase Agreement, Indigo purchased a convertible promissory note (the “**Second Bridge Note**”) in the amount of CAD\$10,000,000. The Second Bridge Note was issued on October 26, 2023, and bears interest at a rate of 20% per annum, convertible and payable semi-annually in arrears. As at December 31, 2023, the total amount outstanding under the Second Bridge Note is approximately CAD\$10,365,000. The Second Bridge Note matures on the earlier of the consummation of a transaction that Lynx Air is in the process of negotiating and June 30, 2024. A copy of the Second Bridge Note is attached hereto as **Exhibit “25”**.

60. All obligations of Lynx Holdco under the Second Bridge Note Purchase Agreement are guaranteed by Lynx Opco, pursuant to a Guarantee between Indigo and Lynx Opco dated October 26, 2023 (the “**Second Bridge Note Guarantee**”) and are also secured against all present and after-acquired personal property of the Applicants pursuant to a General Security Agreement dated October 26, 2023 (the “**Second Bridge Note General Security Agreement**”). Copies of the Second Bridge Note Guarantee and the Second Bridge Note General Security Agreement are attached hereto as **Exhibit “26”** and “**27**”.

(iii) The Third Bridge Note Purchase Agreement

61. Pursuant to the Third Bridge Note Purchase Agreement, Indigo purchased a convertible promissory note (the “**Third Bridge Note**”) up to an equivalent amount in Canadian Dollars of USD\$5,000,000. The Third Bridge Note was issued on January 12, 2024 in the amount of CAD\$6,695,500, and bears interest at a rate of 20% per annum, payable semi-annually in arrears. The Third Bridge Note matures on the earlier of the consummation of a transaction that Lynx Air is in the process of negotiating and June 30, 2024. A copy of the Third Bridge Note is attached hereto as **Exhibit “28”**.

62. All obligations of Lynx Holdco under the Third Bridge Note Purchase Agreement are guaranteed by Lynx Opco, pursuant to a Guarantee between Indigo and Lynx Opco dated January 12, 2024 (the “**Third Bridge Note Guarantee**”) and are also secured against all present and after-acquired personal property of the Applicants pursuant to a General Security Agreement dated January 12, 2024 (the “**Third Bridge Note General Security Agreement**”). Copies of the Third Bridge Note Guarantee and the Third Bridge Note General Security Agreement are attached hereto as **Exhibit “29”** and “**30**”.

(iii) The Fourth Bridge Note Purchase Agreement

63. Pursuant to the Fourth Bridge Note Purchase Agreement, Indigo purchased a convertible promissory note (the “**Fourth Bridge Note**”) up to an equivalent amount in Canadian Dollars of USD\$5,000,000. The Fourth Bridge Note was issued on February 2, 2024 in the amount of CAD\$6,698,500, and bears interest at a rate of 20% per annum, convertible and payable semi-annually in arrears. The Fourth Bridge Note matures on the earlier of the consummation of a transaction that Lynx Air is in the process of negotiating and June 30, 2024. A copy of the Fourth Bridge Note is attached hereto as **Exhibit “31”**.

64. All obligations of Lynx Holdco under the Fourth Bridge Note Purchase Agreement are guaranteed by Lynx Opco, pursuant to a Guarantee between Indigo and Lynx Opco dated February 2, 2024 (the “**Fourth Bridge Note Guarantee**”) and are also secured against all present and after-acquired personal property of the Applicants pursuant to a General Security Agreement dated February 2, 2024 (the “**Fourth Bridge Note General Security Agreement**”). Copies of the Fourth Bridge Note Guarantee and the Fourth Bridge Note General Security Agreement are attached hereto as **Exhibit “32”** and “**33**”.

(iii) The Fifth Bridge Note Purchase Agreement

65. Pursuant to the Fifth Bridge Note Purchase Agreement, Indigo purchased a convertible promissory note (the “**Fifth Bridge Note**”) up to an equivalent amount in Canadian Dollars of USD\$6,753,000. The Fifth Bridge Note was issued on February 7, 2024, and bears interest at a rate of 20% per annum, payable semi-annually in arrears. The Fifth Bridge Note matures on the earlier of the consummation of a transaction that Lynx Air is in the process of negotiating and June 30, 2024. A copy of the Fifth Bridge Note is attached hereto as **Exhibit “34”**.

66. All obligations of Lynx Holdco under the Fifth Bridge Note Purchase Agreement are guaranteed by Lynx Opco, pursuant to a Guarantee between Indigo and Lynx Opco dated February

7, 2024 (the “**Fifth Bridge Note Guarantee**”) and are also secured against all present and after-acquired personal property of the Applicants pursuant to a General Security Agreement dated February 7, 2024 (the “**Fifth Bridge Note General Security Agreement**”). Copies of the Fifth Bridge Note Guarantee and the Fifth Bridge Note General Security Agreement are attached hereto as **Exhibit “35”** and “**36**”.

67. As at January 31, 2024, the total amount owing under all of the aforementioned promissory notes issued to Indigo is: CAD\$100,216,906 in principal, and CAD\$24,084,241 in interest.

(iv) The Noteholders’ and Shareholders’ Agreement

68. In connection with the Note Purchase Agreement, Lynx Holdco, Lynx Opco, the Canadian Investors and Indigo entered into a Noteholders’ and Shareholders’ Agreement dated December 20, 2018, as amended by amendment no. 1 to the Noteholders’ and Shareholders’ Agreement effective as of June 7, 2021, as further amended by amendment no. 2 to the Noteholders’ and Shareholders’ Agreement dated as of December 5, 2022, as further amended by amendment no. 3 to the Noteholders’ and Shareholders’ Agreement dated as of February 24, 2023, as further amended by amendment no. 4 of the Noteholders’ and Shareholders’ Agreement dated October 26, 2023, as further amended by amendment no. 5 to the Noteholders’ and Shareholders’ Agreement dated as of January 12, 2024, as further amended by amendment no. 6 to the Noteholders’ and Shareholders’ Agreement dated as of February 2, 2024, and as further amended by amendment no. 7 to the Noteholders’ and Shareholders’ Agreement dated as of February 7, 2024 (collectively, the “**Noteholders’ and Shareholders’ Agreement**”).

69. A copy of the Noteholders’ and Shareholders’ Agreement is attached hereto as **Exhibit “37”**.

The Aircraft Leases

70. The Applicants are party to nine 12-year leases for nine aircraft:
- (a) an aircraft lease novation and amendment agreement between Lynx Opco as lessee, Wellington Leasing No. 40 Limited as existing lessor, and Bank of Utah, not in its individual capacity but solely as owner trustee (“**Bank of Utah**”), as new lessor, dated June 24, 2023 (the “**Utah Lease Novation and Amendment Agreement**”) and effective March 16, 2022;³
 - (b) an aircraft lease novation and amendment agreement between Lynx Opco as lessee, Wellington Leasing No. 39 Limited as existing lessor, and High Ridge Aviation Trading 2 Limited (“**High Ridge**”) as new lessor, dated June 26, 2023 (the “**High Ridge Lease Novation and Amendment Agreement**”) and effective February 14, 2022;⁴
 - (c) an aircraft lease novation and amendment agreement between Lynx Opco as lessee, Wellington Leasing No. 41 Limited as existing lessor, AERDragon MSN44306 Leasing Limited (“**AERDragon**”) as new lessor, and Société Générale as security trustee dated June 27, 2023 (the “**AERDragon Lease Novation and Amendment Agreement**”) and effective April 5, 2022;⁵

³ The original lease agreement between Lynx Opco and Wellington Leasing No. 40 Limited (“**Wellington 40**”) is dated April 23, 2021, and was amended on November 4, 2021. A Certificate of Acceptance and Estoppel dated March 16, 2022 was given by Lynx Opco and delivered to Wellington 40, as well as a Short Form Lease Agreement 44314 dated March 16, 2022 between Wellington 40 and Lynx Opco.

⁴ The original lease agreement between Lynx Opco and Wellington Leasing No. 39 (“**Wellington 39**”) is dated April 23, 2021, and was amended on November 4, 2021 and February 11, 2022. A Certificate of Acceptance and Estoppel dated February 14, 2022 was given by Lynx Opco and delivered to Wellington 39, as well as a Short Form Lease Agreement 44312 dated February 14, 2022 between Wellington 39 and Lynx Opco.

⁵ The original lease agreement between Lynx Opco and Wellington Leasing No. 41 Limited (“**Wellington 41**”) is dated April 23, 2021, and was amended on November 4, 2021 and March 29, 2022. A Certificate of Acceptance and

- (d) three aircraft lease agreements with BOC Aviation Limited (“**BOCA**”), each dated February 23, 2022 (collectively, the “**BOCA Lease Agreements**”) and effective May 1, 2023, July 31, 2023, and August 18, 2023; and
- (e) three aircraft lease agreements with Wilmington Trust SP Services (Dublin) Limited (“**Wilmington Trust**”) each dated November 4, 2021 (collectively, the “**Wilmington Trust Lease Agreements**”), effective July 13, 2022, July 27, 2022, and August 26, 2022, respectively.

71. Additionally, the Applicants are party to three 12-year leases for three engines with Engine Lease Finance Corporation, each dated April 26, 2023 (collectively, the “**Engine Lease Agreements**”), effective April 27, 2023, May 11, 2023, and August 23, 2023.

72. Each of the above leases is associated with obligations to pay monthly lease rentals and monthly amounts in anticipation of an eventual maintenance spend; the aggregate payment under the twelve 12-year leases is CAD\$4,600,000. Additionally, all obligations of the Applicants under the Aircraft Leases are (i) guaranteed by the terms of various guarantees and (ii) secured by the corresponding security interests and international interests being registered pursuant to the *Alberta Personal Property Security Registry* and the International Registry (as such term is defined in *An Act to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment*, S.C. 2005, c. 3).

ATB Cash Collateral

Estoppel dated April 5, 2022 was given by Lynx Opco and delivered to Wellington 41, as well as a Short Form Lease Agreement 44306 dated April 5, 2022 between Wellington 41 and Lynx Opco.

73. Lynx Air has 13 letters of credit totalling CAD\$5,876,000 issued by ATB for the benefit of Western Surety Company, Greater Toronto Airports Authority, Vancouver Airport Authority, City of Kelowna – City Hall, Aeroports de Montreal, City of Los Angeles, Department of Airports, City of Phoenix Aviation Department, Greater Orlando Aviation Authority, Clark County Department of Aviation Harry Reid International Airport, Tom Bradley International Terminal Equipment Company, Hillsborough County Aviation Authority, Lee County Port Authority, and His Majesty the King in right of the Province of British Columbia. As discussed above in paragraph 34(b), these letters of credit are fully secured by cash deposits which are held by ATB as security for the letters of credit which have been issued.

74. On November 6, 2023, ATB registered a security interest in the cash deposits in the amount of CAD\$1,027,613.62, and on February 14, 2024, ATB registered an additional security interest in the amount of CAD\$4,469,645.96.

Tax Payment Arrangement

75. Lynx Opco is in arrears with the CRA in the amount of CAD\$25,578,279 (the “**Outstanding Balance**”) for debt owing to the Canada Border Services Agency in respect of GST incurred on importation of aircraft into Canada. As such, the CRA and Lynx Opco have entered into a payment arrangement dated November 17, 2023 (the “**CRA Arrangement Agreement**”). Pursuant to the CRA Arrangement Agreement, as of October 2023, Lynx Opco is required pay a total of CAD\$500,000 towards the Outstanding Balance according to the following schedule: CAD\$100,000 on December 1, 2023, CAD\$100,000 on January 2, 2024, CAD\$100,000 on February 1, 2024, and CAD\$200,000 on March 1, 2024. Commencing April 1, 2024, Lynx Opco must make monthly payments on the first of each month, in a minimum amount of CAD\$700,000 towards the Outstanding Balance, until the arrears are retired.

76. A copy of the CRA Arrangement Agreement is attached hereto as **Exhibit “38”**.

Trade Creditors

77. The Applicants have ongoing supply and/or service arrangements with numerous vendors and services providers, including for operation and maintenance of the aircraft.

78. As at December 31, 2023, the Applicants owed accrued and outstanding amounts to trade creditors in the aggregate amount of CAD\$46,797,000, before taking into account any disputed amounts or claims to set-off which the Applicants may have or assert.

Office Lease Obligations

79. Lynx Opco is party to a lease agreement with Deerfoot Junction Holdings Inc., as landlord, dated December 30, 2021, as amended on May 1, 2023, pursuant to which it leases head office space in Calgary, Alberta, at 3215 – 12th Street N.E. (the “**Commercial Lease**”). All obligations of Lynx Holdco under the Commercial Lease are current.

Litigation Claims

80. The Applicants are involved in certain claims and litigation arising in the course of its business, including two ongoing claims in the Alberta Court of King’s Bench by one former Officer and one former employee against Lynx Air, each related to wrongful dismissal.

PPR Registrations

81. I am advised by Julie Treleaven of Osler, Hoskin & Harcourt LLP, counsel to the Applicants, that as of February 16, 2024, there are 16 registrations against the Applicants in the Alberta *Personal Property Security Registry*, being:

- (a) Two registrations against Lynx Holdco and Lynx Opco by Indigo of its security interest in all present and after-acquired personal property of the Applicants secured by the Note General Security Agreement, the First Bridge Note General Security Agreement, the Second Bridge Note General Security Agreement, the Third Bridge Note General Security Agreement, the Fourth Bridge Note General Security Agreement, and the Fifth Bridge Note General Security Agreement;
- (b) One registration against Lynx Opco by ATB of a security interest in the amount of USD\$1,027,613.62 and CAD\$4,469,645.96 for amounts on deposit with ATB;
- (c) One registration against Lynx Opco by High Ridge of security interests on certain Boeing airframes and engines supplied to the Applicants pursuant to the High Ridge Lease Novation and Amendment Agreement;
- (d) One registration against Lynx Opco by Bank of Utah of security interests on certain Boeing airframes and engines supplied to the Applicants pursuant to Bank of Utah Lease Novation and Amendment Agreement;
- (e) One registration against Lynx Opco by AERDragon of security interests on certain Boeing 737 MAX 8 aircraft and engines supplied to the Applicants pursuant to the AERDragon Lease Novation and Amendment Agreement;
- (f) One registration against Lynx Opco by Société Générale of security interests on certain Boeing 737 MAX 8 aircraft and engines supplied to the Applicants pursuant to the AERDragon Lease Novation and Amendment Agreement;

- (g) Three registrations against Lynx Opco by Wilmington Trust of security interests on certain Boeing 737 MAX 8 aircraft and engines supplied to the Applicants pursuant to the Wilmington Trust Lease Agreements;
- (h) Three registrations against Lynx Opco by BOCA of security interests on certain Boeing 737 MAX 8 aircraft and engines supplied to the Applicants pursuant to the BOCA Lease Agreements; and
- (i) Three registrations against Lynx Opco by Engine Lease Finance Corporation of security interests on certain engines supplied to the Applicants pursuant to the Engine Lease Agreements.

82. A copy of the Alberta *Personal Property Security Registry* search for Lynx Holdco and Lynx Opco is attached hereto as **Exhibit “39”** and **“40”**.

C. Equity

83. The Applicants’ authorized share capital consists of an unlimited number of Common Voting Shares, an unlimited number of Variable Voting Shares, an unlimited number of Non-Voting Shares, and an unlimited number of Preferred Shares. As at February 6, 2024, there were 35,621,063 Common Shares and 421,829,531 Convertible Shares issued and outstanding.

84. The Applicants also have a stock option plan pursuant to which options are granted to directors, officers, employees, consultants or other service providers as a form of compensation. As at February 6, 2024, there were approximately 2,183,829 outstanding stock options, all of which are out-of-the-money.

PART IV – RECENT EVENTS LEADING TO CCAA FILING

85. The Applicants' need to restructure is primarily driven by drastically reduced revenues over the past two years because of significant and sustained external factors, and a capital structure that can no longer be sustained in the face of these challenges. After Lynx Air started business (but before it flew its inaugural flight) it was met with a number of serious unforeseeable challenges to its business, as described below.

Competitive Landscape

86. The Canadian airline industry can be characterized as a duopoly dominated by two major airlines: Air Canada and WestJet. These airlines, in part through their well-established operations and market affluence, can decrease their base fares to prices comparable to ULCCs such as Lynx Air. This in turn saturates the market for ULCCs by reducing its consumer base, resulting in a reduction in passenger demand that ultimately correlates to decreases in revenue. This reduced passenger demand is further amplified by Lynx Air's direct ULCC competitors, Flair Airlines and Canada Jetlines, who operate on similar strategic and operational structures. As such, Lynx Air's entry into the Canadian market was a difficult and competitive venture.

87. However, the already competitive and constrained passenger market in Canada was significantly impacted by the COVID-19 pandemic. Government-imposed travel restrictions, health concerns, and the economic disruptions caused by the pandemic led to a substantial decrease in passenger demand which continues to be observed in the airline market today. As a result of this decreased demand, Lynx Air's competition among Canada's airlines intensified as they vied for a limited number of passengers. These market conditions ultimately resulted in unanticipated consequences to Lynx Air's capital structure.

Drastic Increase in Jet Fuel Prices

88. As outlined in paragraph 6 above, the dramatic and sustained increase in jet fuel prices since 2019 has had a direct and major impact on the Applicants' business. In 2023 alone, fuel was between 50-100% higher than projected in the Applicants' original business plan. This resulted in fuel expenses approximately CAD\$30,000,000 over the original business plan.

89. Unlike legacy airlines, these unprecedented price increases more dramatically affect ULCC airlines like Lynx Air. While legacy airlines or a low-cost-carriers can recoup increased fuel prices by increasing base fares, an ULCC cannot deviate from the established base fare without abandoning the ULCC model altogether.

The Boeing 737 MAX 8 Groundings

90. On October 29, 2018, and again on March 10, 2019, the Boeing 737 MAX 8 aircraft (which was the only model that Lynx Air was planning on using in its fleet) was involved in two mass-fatality incidents. Consequently, in March of 2019 most civil aviation authorities, including the TCCA, grounded the Boeing 737 MAX 8 aircraft over safety concerns. This grounding lasted until December of 2020, and coincided exactly with Lynx Air's intended first flight (the first quarter of 2019).

91. As the Boeing 737 MAX 8 aircraft was the only type of aircraft purchased for Lynx Air's fleet, the Applicants were unable to (a) begin operations, and (b) take delivery of additional aircraft purchased under the Boeing Purchase Agreement. This resulted in administrative and operating costs being incurred without any significant return of revenue until Lynx Air's inaugural flight in April of 2022 – 3 years after the intended inaugural flight in the first quarter of 2019.

PART V – THE APPLICANTS' URGENT NEED FOR PROTECTION

92. The Applicants are in urgent need of protection under the CCAA to preserve value for all stakeholders. The financial strains placed on the Applicants' business as a result of the foregoing events has been disastrous to the Applicants' business.

93. Accordingly, while the Applicants have significant business operations and assets, the reduced revenues required to conduct its ongoing operations, together with a combination of factors outside of its control, have placed the Applicants in a liquidity crisis.

94. While the Applicants have in the past received debt financing from Indigo to fund its operating costs, it has never been able to achieve profitability in order to become self-sustaining. More recently, the Applicants have been unsuccessful in efforts to secure additional capital in order to try to achieve profitability. As a result, the Applicants find themselves in a situation where not only can they not repay the Initial Notes, but they are unable to fund day to day operations without additional debt financing from Indigo.

95. In response to the liquidity crisis caused by the multiple outside factors described above, the Applicants have attempted to implement further cost mitigation measures to protect the minimum capital required to continue basic care and maintenance operations of its aircraft. Since September of 2023, the Applicants have, among other things, taken the following steps:

- (a) limited itself to essential hiring only;
- (b) implemented revenue-management technology;
- (c) optimized costs by re-routing flights to have "out and back flying" versus overnight stays; and
- (d) modified its flight network to avoid overlap in Canada's aviation market.

96. Notwithstanding these cost mitigation efforts, the Applicants' current revenue amounts have resulted in a significant amount of ageing trade payables and declining liquidity to support operations, and the Applicants are currently over-leveraged and unable to sustain operations at current revenue levels and at current expense levels – even with cost-cutting measures implemented. Accordingly, the Applicants currently find themselves in a situation where expenses are outstripping revenue, putting a strain on the Applicants' cash reserves which are being quickly depleted. As noted in the Applicants' cash flow forecast, the Applicants will soon have its cash reserves entirely exhausted and will be unable to pay its suppliers or staff.

97. Additionally, as discussed above in paragraphs 29 to 33, Lynx Air has received notices of default from various parties, such as the GTAA and Delta with cure periods expiring on February 21, 2024 and February 26, 2024, respectively. If unpaid, the GTAA and Delta may commence enforcement proceedings which could include measures which would significantly and negatively affect the Applicants' operations, including withdrawing services and seizure of aircraft.

98. As a result, for the past several months the Applicants have been exploring options both to raise additional capital which would permit the Applicants to continue to carry on business, or to enter into a transaction which would permit the Applicants to wind down operations in an orderly fashion to maximize value for the Applicants' affected stakeholders. As of February 21, 2024, the Applicants have entered into a Letter of Intent for a transaction that will allow an orderly wind down of operations while simultaneously maximizing the value of the Applicants' remaining assets. The Applicants therefore urgently require the protection of the CCAA in order to conclude this transaction for the benefit of all stakeholders. In absence of a CCAA filing, the Applicants will be in imminent danger of a disorderly operational shut-down that will result in aircraft and

passengers being haphazardly stranded across Lynx Air's network, and a myriad of individual creditors and service providers exercising enforcement measures against Lynx Air's assets.

PART VI – STATUTORY REQUIREMENTS UNDER THE CCAA

A. The Applicability of the CCAA

99. The Applicants are companies to which the CCAA applies. The Board of Directors of the Applicants have resolved to authorize the within CCAA proceedings.

100. The Applicants have claims against it in excess of CAD\$5,000,000. As at January 31, 2024, the Applicants are indebted to Indigo in the amount of CAD\$100,216,906 in principal, and CAD\$24,084,241 in interest. All obligations of the Applicants to Indigo are secured by security interests in all of the Applicants' present and after acquired property. As at December 31, 2023, the Applicants also owe outstanding amounts to certain trade creditors in the aggregate amount of CAD\$46,797,000. The Applicants are unable to pay these amounts.

101. The Applicants are insolvent and are, or soon will be, unable to meet their obligations generally as they become due by virtue of revenues falling below operating costs, as a result of the matters described above.

B. Cash-Flow Projections

102. The Applicants, with the assistance of FTI, have prepared cash flow statements, on a go forward basis up to and including March 2, 2024 (the "**Cash-Flow Projections**"). The Cash-Flow Projections are attached as **Exhibit "41"** hereto.

103. As set out in the Cash-Flow Projections, from the date hereof until March 2, 2024, the Applicants' principal use of cash will consist of funding operations. The Cash-Flow Projections

evidence that, subject to obtaining the limited relief sought as part of the Originating Application, the Applicants will have sufficient liquidity to fund its ongoing operations without the need for additional funding during the initial ten (10) day stay period.

C. Consent to Act by FTI

104. The Applicants seek appointment of FTI as Monitor in these proceedings (in such capacity, the “**Monitor**”). FTI has consented to act as Monitor of the Applicants, subject to Court approval. Attached as **Exhibit “42”** is FTI’s Consent to Act as Monitor.

D. Administration Charge

105. As noted above, FTI has consented to act as Monitor in these proceedings to provide supervision, monitoring and to generally assist the Applicants with its restructuring efforts, including the potential preparation of a CCAA plan to be put to the Applicants’ creditors pursuant to the terms of the proposed Initial Order and the statutory provisions of the CCAA.

106. The Monitor, counsel for the Monitor, and the Applicants’ counsel (being the Applicants’ restructuring counsel Osler, Hoskin & Harcourt LLP and the Applicants’ corporate counsel Linmac LLP) will be essential to the Applicants’ restructuring efforts. They are prepared to provide or continue to provide professional services to the Applicants, and require the protection of a first-ranking priority charge (the “**Administration Charge**”) over the Applicants’ assets. However, the Administration Charge shall not rank in priority to the interests of any aircraft lessor or financier as described in paragraphs 70 and 71 above.

107. The Applicants believe that an Administration Charge in the amount of CAD\$500,000 is fair and reasonable given the size and complexity of the Applicants’ business and will provide the level of appropriate protection for the payment of the Applicants’ essential professional services

during the initial ten (10) day stay period. The Applicants intend to apply for an increase of the Administration Charge to CAD\$750,000 at the comeback application.

E. Interim Lending and the Interim Lender's Charge

108. As demonstrated in the Cash-flow Projections, the Applicants require interim financing to pursue their restructuring efforts in the context of these CCAA proceedings and to allow payment of future financial obligations, including obligations to trade creditors, as well as to allow the Applicants to properly retain both the proposed monitor and legal counsel to assist and advise the Applicants in relation to restructuring options.

109. As at the date of this Affidavit, the Applicants and the Interim Lender have agreed upon interim financing in an amount of CAD\$1,000,000 during the initial Stay Period, pursuant to the terms of the Interim Lending Term Sheet that is subject to final approval by Indigo. It is the Applicants' intention, subject to receiving the necessary approval of this Honourable Court, to draw down on the Interim Financing to fulfil mandatory statutory payments and immediately make the necessary arrangements with its employees, contractors, vendors, and other stakeholders to wind-down its business operations in an orderly fashion. A copy of the draft Interim Lending Term Sheet (which I believe to be either final or near final) is attached hereto as **Exhibit "43"**.

110. The Interim financing is proposed to be secured by a second ranking Interim Lender's Charge on all of the Property of the Applicants. However, the Interim Lenders' Charge shall not rank in priority to the interests of any aircraft lessor or financier as described in paragraphs 70 and 71 above.

F. D&O Charge

111. The requested relief also contains a third ranking charge against the Applicants' Property as security for any obligations and liabilities the Applicants' directors and officers may incur in their roles as directors and officers after February 22, 2024, up to the maximum amount of CAD\$500,000. However, the D&O Charge shall not rank in priority to the interests of any aircraft lessor or financier as described in paragraphs 70 and 71 above.

112. The Applicants require the services of their directors and officers to develop a viable proposal. The Applicants' directors and officers have the technical and institutional knowledge, experience, and relationships necessary to preserve the value of Lynx Air's operations and business for the benefit of all stakeholders. The Applicants' chances to implement a successful restructuring are maximized by the continued involvement of their directors and officers.

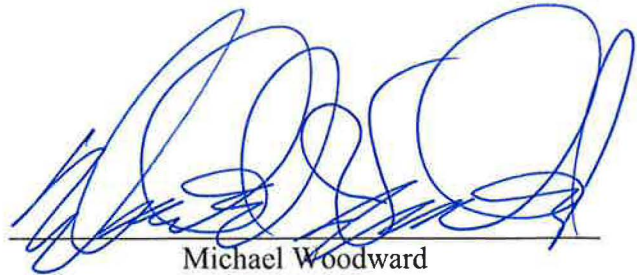
PART VII – RELIEF SOUGHT

113. I make this Affidavit in support of the Initial Order pursuant to the CCAA, including a stay of proceedings, for the purposes of allowing Lynx Air an opportunity to restructure its affairs and develop a plan of arrangement for the benefit of its creditors.

SWORN BEFORE ME at Calgary, Alberta,
this 22nd day of February, 2024.



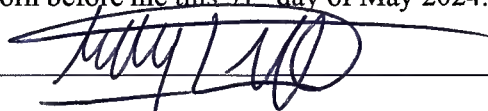
Notary Public and Commissioner for Oaths in
and for the Province of Alberta



Michael Woodward

Julie Laura Treleaven
Barrister & Solicitor

This is **Exhibit "G"** to the Affidavit of Michael Woodward
sworn before me this 31st day of May 2024.

A handwritten signature in black ink, appearing to read 'Ashley Light', written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

ASHLEY ELIZABETH LIGHT
Student-at-Law

Osler, Hoskin & Harcourt LLP
Box 50, 1 First Canadian Place
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OSLER

Toronto

March 5, 2024

Shawn Irving
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Sent by Electronic Mail (rvandemosselaer@osler.com)

Calgary

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225 – 6th Avenue S.W.
Calgary, Alberta T2P 1N2

Ottawa

Vancouver

New York

Dear Mr. Van de Mosselaer:

In the Matter of a Plan of Compromise or Arrangement of Lynx Air Holdings Corporation and 1263343 Alberta Inc. dba Lynx Air – Airport Improvement Fee Trust

We act for the Greater Toronto Airports Authority (the “GTAA”). We are aware that on February 22, 2024, Lynx Air Holdings Corporation and 1263343 Alberta Inc. dba Lynx Air (collectively “Lynx Air”) sought and obtained an initial order (as subsequently amended and restated, the “ARIO”) under the *Companies’ Creditors Arrangement Act* (“CCA”).

As you may know, 1263343 Alberta Inc. (dba Lynx Air) and the GTAA are parties to the Greater Toronto Airports Authority Airport Improvement Fee Agreement (the “AIF Agreement”), dated January 1, 2023. The AIF Agreement sets out, among other things, the requirement that the Airport Improvement Fee (“AIF”) charged by the GTAA to Enplaned Passengers (as defined in the AIF Agreement) be collected and held by Lynx Air on behalf of GTAA and remitted back to the GTAA.

Paragraph 2.1.1(c) expressly provides that the AIF collected on behalf of the GTAA by Lynx Air are funds or revenues belonging to the GTAA and not Lynx Air. Moreover, Lynx Air is expressly required to hold the AIF in trust for the benefit of the GTAA. As such, the AIF collected by Lynx Air from Enplaned Passengers represent trust funds that do not form part of the debtor’s Property (as that term is defined in the ARIO) and cannot be distributed to Lynx’s creditors or otherwise used as part of the CCA proceeding. An excerpt of the applicable provisions in the AIF Agreement is attached as Schedule “A”. A full copy of the AIF Agreement, which is confidential, is available upon request.

As of February 21, 2024, Lynx Air is holding CAD \$1,710,148.23 million in AIF (the “AIF Monies”) in trust on behalf of the GTAA. GTAA demands that Lynx Air immediately remit the AIF Monies that remain owing to the GTAA, failing which the GTAA intends to bring a payment motion in the CCA proceeding. In the meantime, we expect that Lynx Air will refrain from taking any steps to deplete or use the AIF Monies in any way.

We look forward to hearing from you.

Sincerely,



Shawn Irving
Partner

- cc. FTI Consulting Canada Inc. *in its capacity as Monitor of Lynx Air*
McCarthy Tétrault LLP, *Counsel for the Monitor*
Julie Treleaven, *Osler, Hoskin & Harcourt LLP (Calgary)*
Andrea Campbell, *Greater Toronto Airports Authorities*
Peter Humele, *Greater Toronto Airports Authorities*
Emma Smith, *Osler, Hoskin & Harcourt LLP (Toronto)*

SCHEDULE "A"



GREATER TORONTO AIRPORTS AUTHORITY AIRPORT IMPROVEMENT FEE AGREEMENT

Toronto-Pearson International Airport
P.O. Box 6031, Toronto AMF, Ontario, L5P 1B2

DATE: January 1, 2023 (the "Effective Date")

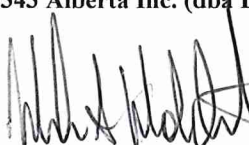
NAME OF CARRIER: 1263343 Alberta Inc. (dba Lynx Air)

As of the Effective Date, each of the Greater Toronto Airports Authority ("GTAA") and 1263343 Alberta Inc. (dba Lynx Air) ("Air Carrier") hereby agree as follows with respect to the imposition by GTAA of an Airport Improvement Fee, the collection of Deposits by Air Carrier from certain passengers and the remittance of Deposits by Air Carrier to GTAA as hereinafter set forth.

Greater Toronto Airports Authority

Per: 
Name: John Peellegoda
Title: Acting Chief Financial Officer

12633343 Alberta Inc. (dba Lynx Air)

Per: 
Name: Michael S. Holditch
Title: Chief Financial Officer

GTAA to evaluate, consult on and ultimately provide a recommendation to the ACC on the technical suitability of all Reviewable Capital Programs; and

“Vice President and Chief Financial Officer” means the GTAA employee holding the position of Vice-President and Chief Financial Officer from time to time and will include any acting Vice-President and Chief Financial Officer and, if the title of the position is changed, the employee who is able to exercise the authority of the Vice President and Chief Financial Officer for the purposes of this Agreement.

- 1.2. Words importing the singular number include the plural and vice versa and words importing gender include the masculine, feminine and neuter genders.
- 1.3. The division of this Agreement into Articles, Sections, Subsections, paragraphs and subparagraphs and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement.
- 1.4. The words “hereof”, “herein”, “hereunder” and similar expressions used in any Article or Section of this Agreement relate to the whole of this Agreement and not to that Article or Section only, unless otherwise expressly provided.
- 1.5. Wherever in this Agreement the terms “include”, “includes”, “including” or any derivations thereof are used, such term will be interpreted to mean “including, without in any way limiting the generality of the foregoing,” such that any list following such term will not be construed so as to constitute an exhaustive list of the items so listed.
- 1.6. Except as otherwise indicated herein, at all times during the Term of this Agreement, the Parties will act reasonably in exercising their rights or discretions, making requests, making determinations and performing their duties and obligations under and in connection with this Agreement.

2. AIRPORT IMPROVEMENT FEE

2.1. Imposition and Usage of AIF and Remittance/Collection of Deposits

- 2.1.1 (a) The Parties agree that in general, AIF (specifically excluding amounts to be retained by Air Carrier in respect of the Administration Cost and amounts collected and remitted in respect of HST and other applicable taxes which will be remitted to the relevant authorities) will be used by GTAA for the purpose of Capital Programs and Capital Projects designed in furtherance of the:
 - (i) creation of operational efficiencies that reduce operating cost;
 - (ii) development of operating capacity;
 - (iii) generation of positive cash flow from non-aeronautical revenue sources;
and
 - (iv) other purposes set forth in Section 2.3 hereof,

and for debt service on any Capital Projects or Programs (which, for clarity, include debt service on any capital projects or programs which have been incurred by GTAA prior to the Effective Date of this Agreement).

- (b) During the Term, GTAA intends to impose an AIF in respect of the Enplaned Passengers carried by air carriers (including Air Carrier) operating from the Airport. In consideration of the retention by Air Carrier of the Administration Cost referred in Section 2.5 of this Agreement, Air Carrier will make every commercially reasonable effort to collect, or cause to be collected, the Deposit for and on behalf of GTAA at the time of the sale of a Ticket to each prospective Enplaned Passenger which will be held as a Deposit by Air Carrier and remitted to GTAA as provided in this Agreement.
- (c) Subject to the terms of Section 2.4.2. of this Agreement, each of the Parties acknowledge and agree that: (i) the Deposits collected on behalf of GTAA by Air Carrier from the prospective Enplaned Passengers are funds properly belonging to GTAA and not Air Carrier; and (ii) the Deposits collected by Air Carrier will be held by Air Carrier in trust for the benefit of GTAA. Notwithstanding and without prejudice to the fact that the Deposits will be collected and held by Air Carrier in trust for GTAA, but subject to the terms of Section 2.4.2. of this Agreement, the Parties each acknowledge that such Deposits collected will be commingled in the accounts of Air Carrier with other funds collected during the normal course of business with no obligation to segregate the Deposits from these other funds, and GTAA will be under no obligation at any time to segregate AIF from any other funds it may have.
- (d) Notwithstanding anything to the contrary in this Agreement, the Parties acknowledge and agree that, as of January 1, 2023, Air Carrier and all of the other Participating Air Carriers shall be permitted to: continue using the same IATA "ticket tax" code (IATA Code: SQ); reflect on their Tickets the current AIF description; and collect and remit the AIF in the manner currently being used by all of the Participating Air Carriers, and same will not constitute a breach of any obligation of this Agreement. The Participating Air Carriers will work with IATA and the other Canadian airports diligently to develop and publish, through the IATA Ticket Tax Box Service, a new IATA "ticket tax" code and description reflecting the collection of Deposits in the manner otherwise provided herein. After the publication of the new IATA "ticket tax" code, and as set-out therein, Air Carrier will: reflect the new IATA-approved description on their Tickets; and collect and remit the Deposits on the Remittance Forms to accordingly reflect the Deposit mechanism provided herein.

2.1.2. The obligation to collect and remit Deposits will not apply to Exempt Services provided by Air Carrier. In addition, air carriers who carry less than two thousand (2,000) Enplaned Passengers per calendar year will not be required to collect, hold and remit any Deposits, unless GTAA so elects such air carriers to require such collection, holding and remittance.

2.1.3. Any AIF or fee charged by GTAA on Non-Participating Air Carriers in lieu of the AIF imposed by GTAA will be set at a Canadian whole dollar amount per Enplaned Passenger

for Participating Air Carriers or Non-Participating Air Carriers (as the case may be) plus HST and other applicable taxes. In addition, GTAA will also set an AIF in respect of Connecting Passengers for Participating Air Carriers or Non-Participating Air Carriers (as the case may be) which will be set at a Canadian whole dollar amount per Connecting Passenger.

- 2.1.4.** GTAA has the right at any time during the Term to increase or decrease the amount of the AIF payable by Enplaned Passengers as set out herein. GTAA has the right at any time during the Term to increase or decrease the amount of the Deposit to be collected, held in accordance with Section 2.1.1.(b) and remitted by Air Carrier, provided that GTAA will provide at least 90 calendar days prior written Notice to the ACC and to the Participating Air Carriers.
- 2.1.5.** Regardless of which air carrier sells a Ticket to a prospective Enplaned Passenger or which air carrier designator code is on the Enplaned Passenger's Ticket, the Parties acknowledge and agree that the Participating Air Carrier on whom the Enplaned Passenger actually travels will be the party responsible for the remittance of the Deposit for that prospective Enplaned Passenger in accordance with the other provisions of this Agreement, and, if Air Carrier also sold the Ticket to the prospective Enplaned Passenger, Air Carrier will be responsible for the collection of the Deposit for such Enplaned Passenger.
- 2.1.6.** Except as permitted under Section 2.1.2, GTAA will not levy GTAA Rates and Charges, including landing fees and general terminal charges, on any less favourable terms and conditions to Participating Air Carriers and their passengers, having regard to the AIF imposed by GTAA, than are levied on Non-Participating Air Carriers and their passengers, provided that nothing herein will be interpreted or construed so as to limit the unfettered right of GTAA to set GTAA Rates and Charges at such levels as it deems appropriate in its sole discretion or to offer incentive programs from time to time or to set different fees in lieu of AIF rates for Non-Participating Air Carriers than AIF rates for Participating Air Carriers. Air Carrier acknowledges and agrees that the current arrangement (which Air Carrier agrees is compliant with the foregoing) for Non-Participating Air Carriers is that they pay a fee in lieu of the AIF, which is not, and will not be, less than the dollar amount of the AIF, and which is on the basis of the number of seats instead of the number of Enplaned Passengers, and that GTAA may revise such charging and collection methodology in its sole discretion at any time, subject to the limitations stated in this Section 2.1.6.
- 2.1.7.** If, as a result of any of the following events (an "**AIF Legislative Initiative**"):
- (a) any order, directive, legislative initiative, regulatory change and/or binding policy statement issued by a government authority having jurisdiction over the imposition or collection of an AIF by GTAA; or
 - (b) any order or judgment of any court or administrative body of competent jurisdiction,

GTAA is unable to impose an AIF or Participating Air Carriers are unable to collect the Deposits, the obligations of each Party contained in this Agreement will cease, save and except:

- (a) the obligation of Air Carrier to collect Deposits in accordance with Section 2.1.1.(b), up to and including the date upon which the government authority having jurisdiction or the court or administrative body, has issued, promulgated or enacted the AIF Legislative Event (the “**Event Date**”); and
- (b) the obligations of the Parties described in Section 2.5 to the extent of the Deposits collected, held in accordance with Section 2.1.1.(b) and remitted by Air Carrier for the period up to and including the Event Date.

2.2. Capital Review Process

2.2.1. Airport Master Plan and Capital Plan

Upon the execution of this Agreement, GTAA will provide to the TSC the most current version of the Airport Master Plan along with its five-year capital plan for the Airport (the “**Capital Plan**”) which will outline and detail (using written descriptions and illustrations) GTAA’s capital budget over the number of years covered by the Capital Plan, and its planned Capital Programs, including Reviewable Capital Programs. For clarity and certainty, and as applicable, the Capital Plan will include the terms related to any Permitted Transit Funding Amount. The Parties acknowledge that the Capital Plan is and will continue to be an evolving document as GTAA’s strategy and capital plans evolve, and accordingly GTAA will provide the TSC on an annual basis with an updated version of its Capital Plan. GTAA and the TSC may review and discuss the Airport Master Plan and the Capital Plan, provided that nothing herein will be construed so as to give the TSC or any Participating Air Carrier the right of consultation (including the Consultation Process) with GTAA with respect thereto.

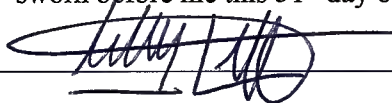
2.2.2. Reporting

(a) Reporting on Airport Master Plan and Capital Plan

GTAA will, on a semi-annual basis (or more frequently if GTAA determines that more frequent reports are warranted to achieve the purposes of this Agreement) provide to the ACC updated information pertaining to:

- (i) Capital Plan impact on debt and debt service levels;
- (ii) Capital Plan impact on operating budget;
- (iii) Amendments to the Capital Plan; and
- (iv) Amendments to the Airport Master Plan.

This is **Exhibit "H"** to the Affidavit of Michael Woodward
sworn before me this 31st day of May 2024.

A handwritten signature in black ink, appearing to read 'Ashley Light', written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

ASHLEY ELIZABETH LIGHT
Student-at-Law

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Toronto

March 28, 2024

Shawn Irving
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sirving@osler.com

Montréal

Sent by Electronic Mail

Calgary

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Suite 2700, Brookfield Place
225 – 6th Avenue S.W.
Calgary, Alberta, T2P 1N2
Attn: Randal Van de Mosselaer
(rvandemosselaer@osler.com)

McCarthy Tétrault LLP
421 7 Avenue SW
Calgary, AB
T2P 4K9
Attn: Sean Collins
(scollins@mccarthy.ca)

Ottawa

Vancouver

New York

Dear Sirs:

In the Matter of a Plan of Compromise or Arrangement of Lynx Air Holdings Corporation and 1263343 Alberta Inc. dba Lynx Air – Airport Improvement Fee Trust

As you know, we act for the Greater Toronto Airports Authority (the “GTAA”) in connection with the Lynx Air CCAA proceeding. On March 5, 2024, we wrote to Mr. Van de Mosselaer, counsel to the Applicants, copying FTI Consulting Canada, in its capacity as Monitor of the Applicants, asserting that Lynx Air is holding at least CAD \$1,710,148.23 million (the “AIF Monies”) in trust on behalf of the GTAA and demanding that Lynx Air immediately remit those funds to the GTAA, as they do not form part of the Property of the Applicants. We also asked that the Applicants confirm that the AIF Monies were not being depleted as part of the CCAA proceedings.

To date, we have not received a response to our March 5th letter. We reiterate our demand herein.

In addition, earlier this week, the Applicants served materials in connection with an application to be heard on April 2, 2024 seeking, among other things, an Order approving an Agreement entered into between Lynx Air and The Boeing Company (“Boeing”) dated March 21, 2024 (the “Termination Agreement”). As we understand it, the Termination Agreement purports to terminate an agreement that had previously been entered into between Lynx Air and Boeing in 2015 giving Lynx the right to purchase certain aircraft and lease additional aircraft from Boeing. In exchange for entering into the Termination Agreement, and if approved by the CCAA Court, Boeing has agreed to pay the Applicants an agreed amount of compensation.

It does not appear, based on our review of the materials, that the Applicants will be seeking any form of distribution order in connection with the April 2nd Application. If our understanding is incorrect, please advise forthwith. It is not our intention to interfere with

the April 2nd Application, or the SISP more generally, so long as our clients' rights and claim to the AIF Monies are not in any way prejudiced.

Finally, we understand that Ms Karen Fellowes, KC of Stikeman Elliott LLP has recently been retained on behalf of the Vancouver Airport Authority and certain other airport authorities in Canada who, like the GTAA, assert that Lynx Air is holding unremitted AIF funds in trust on their behalf. We have had some preliminary discussions with Ms Fellowes in relation to these proceedings and our clients' respective claims to funds held in trust by the Applicants. We agree that it would be beneficial to have a meeting with counsel to the Applicants, the Monitor and its counsel to discuss these issues, and to discuss a reasonable timetable for an application before the CCAA Court, if necessary.

In the meantime, we continue to expect that Lynx Air will refrain from taking any steps to deplete or use the AIF Monies in any way.

We look forward to hearing from you.

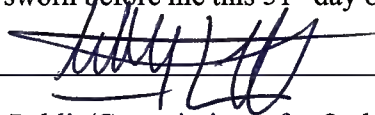
Sincerely,



Shawn Irving
Partner

cc. Deryck Helkaa, Brett Wilson and Dustin Olver, FTI Consulting Canada Inc. *in its capacity as Monitor of Lynx Air*
Walker MacLeod, Pantelis Kyriaskakis and Nathan Stewart, McCarthy Tétrault
Julie Treleaven, *Osler, Hoskin & Harcourt LLP (Calgary)*
Karen Fellowes, KC, *Stikeman Elliott LLP*
Emma Smith, *Osler (Toronto)*

This is **Exhibit "I"** to the Affidavit of Michael Woodward
sworn before me this 31st day of May 2024.

A handwritten signature in black ink, appearing to read 'Ashley Light', written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

ASHLEY ELIZABETH LIGHT
Student-at-Law

Karen Fellowes K.C.
Direct: +1 403 724 9469
Mobile: +1 403 831 9488
KFellowes@stikeman.com

March 28, 2024

File No.: 156416.1001

By Email

Osler, Hoskin & Harcourt LLP
Suite 2700, Brookfield Place
225 - 6 Avenue SW
Calgary AB
T2P 1N2

Attention : Randal Van de Mosselaer

Dear Mr. Van de Mosselaer:

Re: In the matter of Lynx Air Holdings Corporation - Airport Improvement Fee arrears

Please be advised that our office has been retained by the following Canadian airport authorities:

1. Vancouver Airport Authority;
2. Calgary Airport Authority;
3. Edmonton Regional Airport Authority;
4. Winnipeg Airport Authority Inc. and
5. Halifax International Airport Authority

Collectively, the "Airport Authorities".

Each of the Airport Authorities are owed money by 1263343 Alberta Ltd ("Lynx Air") pursuant to various agreements, including a Memorandum of Agreement between the Air Transport Association of Canada, Signatory Air Carriers (including Lynx Air) and the Airport Authorities and others ("the MOA").

Pursuant to the MOA, Lynx Air had an obligation to collect all Airport Improvement Fees ("AIF") charged by the Airport Authorities to Enplaned Passengers, and to remit such AIF collected on behalf of the Airport Authorities. The AIF collected by Lynx Air constitutes monies held in trust for the benefit of the Airport Authorities, by express, implied or constructive trust.

We are still collecting details of the amounts owing, but we are advised that the amount in issue is approximately \$4.1 million. On behalf of the Airport Authorities, we hereby demand return of these trust monies, subject to final confirmation of the exact amounts owing. As you know, pursuant to section 67(1)(a)

of the BIA, trust funds (property held by the bankrupt in trust for any other person) do not form part of the property of the debtor.

We understand that Mr. Shawn Irving of Oslers Toronto office has been engaged by the Greater Toronto Airports Authority ("GTAA") to make a similar claim on behalf of the Toronto Airport. I understand that Mr. Irving wrote to your office on March 5, 2024 but has not yet received a response.

We are copying this letter to the Monitor, and we understand the SISF is ongoing with respect to the exigible assets of Lynx Air. Please be assured that we do not wish to interfere in the SISF process in any way. However, it will be important that no distribution of sale proceeds is made until such time as it becomes clear that there will be sufficient funds to satisfy the trust claims. Given the expedited timelines proposed in the ARIO, we request a meeting with your office and counsel for the Monitor to discuss this issue, including scheduling a Court application (if necessary) and the resulting evidentiary matters.

I look forward to hearing from you at your earliest convenience.

Yours truly,

Stikeman Elliott LLP



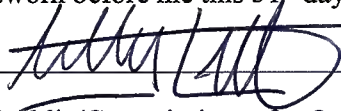
Karen Fellowes K.C.
Senior Counsel

KF/jw

cc: *Sean Irving of Osler, Hoskin & Harcourt LLP, counsel to the Greater Toronto Airports Authority ("GTAA")*
Sean Collins, Walker W. MacLeod, Pantelis Kyriakakis and Nathan Stewart of McCarthy Tétrault, counsel to the Monitor
Deryck Helkaa, Brett Wilson and Dustin Olver, of FTI Consulting, the Monitor

This is **Exhibit "J"** to the Affidavit of Michael Woodward

sworn before me this 31st day of May 2024.

A handwritten signature in black ink, appearing to read "Ashley Light", written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

ASHLEY ELIZABETH LIGHT
Student-at-Law

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OSLER

Calgary

April 2, 2024

Tommy Gelbman
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TGelbman@osler.com
Our Matter Number: 1246361

Toronto

Montréal

Sent By Email

Ottawa

Osler, Hoskin & Harcourt LLP
Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Vancouver

New York

Stikeman Elliot LLP
888 3rd Street S.W., 4200 Bankers Hall West
Calgary, AB T2P 5C5

Attention: Shawn Irving and Karen Fellows, K.C.

Dear Mr. Irving and Ms. Fellows:

**Re: In the matter of the *Companies' Creditors Arrangement Act* proceedings of
1263343 Alberta Inc. dba Lynx Air and Lynx Air Holdings Corporation**

We are in receipt of each of your March 28, 2024 letters requesting payment of Airport Improvement Fees (the “**AIF Monies**”) on behalf of several Canadian airport authorities, and asserting certain amounts to be held in trust by Lynx Air for the benefit of your respective clients.

Capitalized terms used but not defined herein shall have the same meanings ascribed to them in the Affidavit of Michael Woodward, dated February 22, 2024.

We respectfully disagree that Lynx Air must remit any AIF Monies to the airport authorities at this time. Our initial review of the asserted trust claims suggests that not all amounts claimed to be AIF Monies held in trust can accurately be characterized as such, especially in light of the substantial amounts paid to several airport authorities in priority to other stakeholders by virtue of the airport authorities having drawn on their irrevocable letters of credit.¹

Lynx Air’s relationship with each airport authority is different, and as such their respective circumstances are different. This letter will set out Lynx Air’s position with respect to AIF Monies generally, and a separate accounting for each airport authority will be provided in

¹ Lynx Air provided security deposits in the form of irrevocable letters of credit to: (i) Greater Toronto Airport Authority, (ii) Vancouver Airport Authority, (iii) Winnipeg Airport Authority Inc., and (iv) Halifax International Airport Authority. These agreements indicate that some or all of the security is for the purpose of paying any outstanding AIF Monies.

due course, based on, *inter alia*, the respective agreements in place, draws on letters of credit, characterization of the outstanding amounts claimed, and the relevant law.

If AIF Monies claimed by the airport authorities are, as a matter of law, held in trust, then the CCAA and the common law governing such trusts will necessarily govern their distribution. As noted by Ms. Fellows, under paragraph 67(1)(a) of the BIA, trust funds do not form part of a debtor's property. We acknowledge this principle applies under the CCAA.² However, when trust property is commingled with a debtors' property, the process of remittance is complex. Moreover, if some of the asserted pre-filing claims have been paid by virtue of the fact that a claimant has drawn on a letter of credit, then two assessments must be made: (i) against which claims does the letter of credit apply and, in turn, (ii) how to characterize the outstanding amounts claimed – i.e., are the amounts in fact held in trust or do they constitute unsecured debt?³ If such outstanding amounts are held in trust as a matter of law and have not, as a matter of fact, been expended (*i.e.*, the trust funds remain identifiable), then the law contemplates three potential distribution methods: (i) the rule in *Clayton's Case*; (ii) the lowest intermediate balance rule; or (iii) the *pro rata* approach.⁴

These issues must be carefully assessed for each airport authority and resolved in due course, by agreement or, if necessary, by way of application. In any event, nothing in today's application affects this analysis.

Once you have had an opportunity to consider the foregoing, and our forthcoming individual assessments, we would be pleased to discuss a potential meeting, to include the Monitor.

Yours truly,



Tommy Gelbman

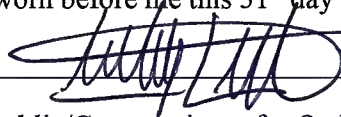
cc: Randal Van de Mosselaer and Julie Treleaven, *Osler, Hoskin & Harcourt LLP*
Sean Collins and Walker MacLeod, *McCarthy Tetrault LLP*
Deryck Helkaa and Dustin Olver, *FTI Consulting Canada Inc.*

² *Century Services Inc v Canada (Attorney General)*, 2010 SCC 60 at paras [23-24](#).

³ *BMP Global Distribution Inc v Bank of Nova Scotia*, 2009 SCC 15 at para [75](#).

⁴ *Easy Loan Corp v Wiseman*, 2017 ABCA 58 at para [28](#).

This is **Exhibit "K"** to the Affidavit of Michael Woodward
sworn before me this 31st day of May 2024.

A handwritten signature in black ink, appearing to read 'Ashley Elizabeth Light', written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

ASHLEY ELIZABETH LIGHT
Student-at-Law

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OSLER

Calgary

April 12, 2024

Tommy Gelbman
Direct Dial: 403.260.7073
TGelbman@osler.com
Our Matter Number: 1246361

Toronto

Montréal

Sent By Email

Ottawa

Osler, Hoskin & Harcourt LLP
Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Vancouver

New York

Attention: Shawn Irving

**Re: In the matter of the *Companies' Creditors Arrangement Act* proceedings of
1263343 Alberta Inc. dba Lynx Air and Lynx Air Holdings Corporation**

Further to our April 2 and 9, 2024 correspondence, we write to set out the Applicant's position in respect of the GTAA's trust claim over pre-filing Airport Improvement Fees (the "**AIF Monies**") collected by Lynx Air on behalf of the GTAA.

Capitalized terms used but not defined herein shall have the same meanings ascribed to them in the February 22, 2024 affidavit of Michael Woodward.

The Trust Relationship

Lynx Air and the GTAA are parties to a January 1, 2023 Greater Toronto Airports Authority Airport Improvement Fee Agreement (the "**AIF Agreement**"), which Lynx Air accepts created a trust relationship in respect of AIF Monies:

2.1.1(c) the AIF collected on behalf of the GTAA by the Air Carrier from the Enplaned Passengers (excluding the amounts collected by the Air Carrier for itself in respect of the Administration Cost) are funds or revenues properly belonging to the GTAA and not the Air Carrier; and (ii) the AIF collected by the Air Carrier (excluding the amounts collected by the Air Carrier for itself in respect of the Administration Cost) shall be held by the Air Carrier in trust for the benefit of the GTAA. Notwithstanding and without prejudice to the fact that the AIF shall be collected and held by the Air Carrier in trust for the GTAA, the Parties each acknowledge that such AIF collected may be commingled in the accounts of the Air Carrier with other funds collected during the normal course of business.

As such, the AIF Monies collected on behalf of the GTAA did not form part of Lynx Air's property.

Quantum of AIF Monies

Section 5 of the GTAA’s Air Carrier – Application for Entry provides that the Letter of Credit constituted a security deposit “in an amount calculated by the GTAA Finance Controller for Landing Fees, General Terminal Fees, Apron Fees, Check-In Fees and Airport Improvement Fees”. We understand from the revised Schedule A-1 for summer 2023¹ that the Letter of Credit was allocated as follows:

Aeronautical Related Security Deposit Requirement	\$1,596,943	52.08%
AIF Security Deposit Requirement	\$1,469,170	47.92%
Total Security Deposit Requirement	\$3,066,113	

The security deposit was increased to \$3,100,000 in June 2023. On or around March 1, 2024, the GTAA drew on the Irrevocable Standby Letter of Credit (No. 356141) issued in favour of the GTAA on April 12, 2022, in the amount of \$3,100,000, as amended, for the account of Lynx Air (the “**Letter of Credit**”).²

Lynx Air has reviewed its accounting records to calculate pre-filing and post-filing AIF Monies that had been collected and held in trust by Lynx Air as follows:

Pre-Filing	Post-Filing	Letter of Credit Drawn	Total Outstanding AIF Monies
\$1,782,424	\$5,959	(\$3,100,000)	\$0

Lynx Air has made the post-filing AIF remittances to the GTAA to satisfy the latter, and the Letter of Credit was applied against pre-filing AIF Monies in priority over secured and unsecured debt claims. As such, all AIF Monies have been remitted to the GTAA. The remainder of the Letter of Credit – \$1,311,617 – satisfied a portion of the pre-filing debt owed by Lynx Air to the GTAA. Accordingly, any residual amounts claimed by the GTAA constitutes unsecured pre-filing debt.

¹ Email and attachments from Nadia Roopchand to Mike Woodward dated March 24, 2023.

² Letter from MLT Aikins LLP dated February 28, 2024, regarding ATB Financial’s release of the Letter of Credit funds to the GTAA.

Based on the foregoing, we respectfully disagree that Lynx Air currently holds any AIF Monies in trust for the GTAA. Indeed, the Letter of Credit has served to put the GTAA in an advantageous position vis-à-vis other Lynx Air creditors because all AIF Monies have been remitted, and a significant portion of unsecured debt was paid. To allocate the Letter of Credit differently would put the GTAA in a far more advantageous position vis-à-vis other creditors, which result would have no support under the CCAA or the common law.

We remain open to meeting with you should the GTAA continue to take a different position having considered the foregoing.

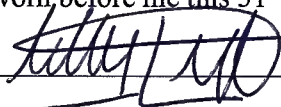
Yours truly,



Tommy Gelbman

cc: Randal Van de Mosselaer and Julie Treleaven, *Osler, Hoskin & Harcourt LLP*
Sean Collins and Walker MacLeod, *McCarthy Tetrault LLP*
Deryck Helkaa and Dustin Olver, *FTI Consulting Canada Inc.*

This is **Exhibit "L"** to the Affidavit of Michael Woodward
sworn before me this 31st day of May 2024.

A handwritten signature in black ink, appearing to read 'Ashley Light', written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

ASHLEY ELIZABETH LIGHT
Student-at-Law

Calgary

April 15, 2024

Tommy Gelbman
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Our Matter Number: 1246361

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Vancouver

New York

Attention: Karen Fellowes, K.C.

**Re: In the matter of the *Companies' Creditors Arrangement Act* proceedings of
1263343 Alberta Inc. dba Lynx Air and Lynx Air Holdings Corporation**

Further to our April 2 and 9, 2024 correspondence, we write to set out the Applicants' position regarding the Airport Authorities' (as defined below) asserted trust claims over pre-filing Airport Improvement Fees (the "**AIF Monies**") collected by 1263343 Alberta Inc. ("**126**") on behalf of the Airport Authorities.

Capitalized terms used but not defined herein shall have the same meanings ascribed to them in the February 22, 2024 affidavit of Michael Woodward.

We understand that Calgary Airport Authority, Edmonton Regional Airport Authority, Halifax International Airport Authority, Vancouver Airport Authority, and Winnipeg Airport Authority Inc. (collectively, the "**Airport Authorities**"), among others, are parties to a May 31, 1999 Memorandum of Agreement (the "**MOA**"), as amended January 20, 2004.¹ The MOA is the only agreement we are aware of that governs the collection and remittance of AIF Monies.² 126 is a party to the MOA.

We could find nothing in the MOA to support the Airport Authorities' assertion that the MOA creates a trust relationship. There is also no authority to support the assertion that 126's collection of AIF Monies on its own creates a trust in favour of the Airport Authorities.

The only provision in the MOA that speaks to the nature of the relationship between 126 and each respective Airport Authority is section 20.1, which contemplates an agency agreement and expressly disclaims a trust relationship:

¹ Pursuant to an executed Accession to Memorandum of Agreement dated April 6, 2022, Lynx Air agreed to be bound to the terms of the MOA on April 6, 2022.

² MOA, sections 1.1.

The Parties expressly disclaim any intention to create a partnership, joint venture, trust relationship or joint enterprise. Nothing contained in this MOA nor any acts of any Party taken in conjunction hereunder, shall constitute or be deemed to constitute a partnership, joint venture, or principal/agency relationship in any way or for any purpose except as the Signatory Air Carriers acting as agents for the Airports in collecting and remitting the AIF funds. Except as expressly set forth herein, no Party, shall have any authority to act for, or to assume any obligations or responsibility on behalf of, any other Party.

As such, the Applicants have determined that none of the AIF Monies collected by 126 is held in trust for the Airport Authorities, and all such claims are unsecured debt.

According to the Applicants' records, the following AIF Monies were collected pre-filing on behalf of the Airport Authorities:

Airport	Pre-filing AIF Monies	Deposit /LC
Calgary Airport	\$2,031,140	–
Vancouver Airport	\$1,185,768	(\$279,900)
Winnipeg Airport	\$267,943	(\$83,300)
Edmonton Airport	\$355,641	–
Halifax Airport	\$365,789	(\$100,000)

We understand that Halifax, Vancouver, and Winnipeg have drawn on their respective letters of credit or security deposits, thereby reducing the debt owed and putting them in an advantageous position vis-à-vis other creditors. All post-filing AIF Monies owed to the Airport Authorities have been paid.

We remain open to meeting with you should the Airport Authorities take a different position or have relevant information that may affect the foregoing analysis.

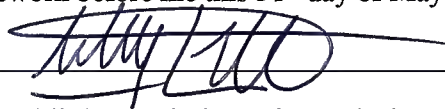
Yours truly,



Tommy Gelbman

cc: Randal Van de Mosselaer and Julie Treleaven, *Osler, Hoskin & Harcourt LLP*
 Sean Collins and Walker MacLeod, *McCarthy Tetrault LLP*
 Deryck Helkaa and Dustin Olver, *FTI Consulting Canada Inc.*

This is **Exhibit "M"** to the Affidavit of Michael Woodward
sworn before me this 31st day of May 2024.

A handwritten signature in black ink, appearing to read 'Ashley Light', written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

ASHLEY ELIZABETH LIGHT
Student-at-Law

April 1, 2024

VIA EMAIL (rvandemosselaer@osler.com)

Osler, Hoskin & Harcourt LLP
Suite 2700, Brookfield Place
225 – 6th Avenue SW
Calgary, AB T2P 1N2

Attention: Randal Van de Mosselaer

Re: Lynx Air Holdings Corporation and 1263343 Alberta Inc., dba Lynx Air (collectively “Lynx Air”) Companies’ Creditors Arrangement Act (“CCAA”) Proceedings and ATB Financial’s Release of Letter of Credit Funds to Greater Toronto Airport Authority

Ryan Zahara
Direct Line: (403) 693-5420
E-mail: rzahara@mltaikins.com

Regie Agcaoili
Legal Assistant
Direct Line: (403) 693-5402
E-mail: ragcaoili@mltaikins.com

We are counsel to ATB Financial (“**ATB**”).

We write to advise that ATB has received a request from the Vancouver Airport Authority (the “**VAA**”) dated March 25, 2024 advising that it is entitled to receive payment under an Irrevocable Standby Letter of Credit No. 3539860 in the full sum of \$279,645.96 for the account of Lynx Air (the “**Letter of Credit**”). A copy of the demand on the Letter of Credit is enclosed to this correspondence.

VAA has instructed ATB to immediately transfer the sum of \$279,645.96 to VAA via wire transfer payment. We write to confirm that ATB will transfer the full amount of \$279,645.96 to VAA by 4:00 p.m. April 3, 2024.

ATB has a draw fee of 0.25% with a minimum charge of \$400 and a maximum charge of \$1,500 (the “**Draw Fee**”). The Draw Fee to fund VAA’s demand on the Letter of Credit will be \$699.11. ATB will be debiting the \$699.11 Draw Fee for this transaction from the funds in Lynx Air’s ATB operating account.

The Letter of Credit simply requires a demand from VAA for ATB to be obligated to make payments under such Letter of Credit. VAA has made that demand and ATB is now obligated to make such payment to VAA. ATB will then proceed to set-off against the cash collateral of Lynx Air that it currently holds to satisfy the obligations paid under the Letter of Credit.

After funding the VAA Letter of Credit, ATB will be holding cash collateral from Lynx Air to secure a number of Irrevocable Letters of Credit in the total amount of \$50,000.00 CAD and \$1,027,613.62 USD (the “**Cash Collateral**”).

Please advise by no later than 12:00 p.m. on Tuesday, April 2, 2024 if your client has any issues with ATB’s release of funds to VAA under the Letter of Credit and the set-off against the cash

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collateral as set out above to enable ATB sufficient time to cash the applicable GIC and process the necessary wire payment.

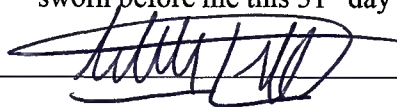
Yours truly,



MLT AIKINS LLP

For: Ryan Zahara

This is **Exhibit "N"** to the Affidavit of Michael Woodward
sworn before me this 31st day of May 2024.

A handwritten signature in black ink, appearing to read 'Ashley Light', written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

ASHLEY ELIZABETH LIGHT
Student-at-Law

Lynx Air

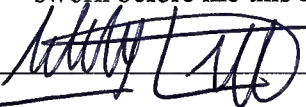
Pre-Filing Payment Summary

As At May 29, 2024

	<u>Airport Code</u>	<u>Pre-Filing AIF</u>	<u>Aeronautical Charges</u>	<u>Letter of Credit</u>	<u>Total Net Outstanding - Pre-Filing</u>	<u>Post-Filing Overpayment</u>	<u>Total Net Outstanding</u>	<u>AIF Less LC</u>	<u>Other Debt</u>
Edmonton Regional Airports Authority	ERAA	YEG	\$355,640.78	\$114,237.51	-	\$466,710.40	\$355,640.78	\$114,237.51	
Halifax International Airports Authority	HIAA	YHZ	\$365,788.78	\$53,647.02	(\$100,000.00)	\$319,435.80	\$265,788.78	\$53,647.02	
Vancouver Airport Authority	VAA	YVR	\$1,185,768.45	\$204,109.05	(\$279,645.96)	\$1,110,231.54	\$906,122.49	\$204,109.05	
Winnipeg Airports Authority Inc.	WAA	YWG	\$282,895.00	\$131,568.94	(\$83,300.00)	\$331,163.94	\$199,595.00	\$131,568.94	
Calgary Airport Authority	CAA	YYC	\$2,031,140.16	\$1,431,308.26	-	\$3,462,448.42	\$2,031,140.16	\$1,431,308.26	
Greater Toronto Airport Authority	GTAA	YYZ	\$1,782,424.04	\$2,977,156.83	(\$3,100,000.00)	\$1,659,580.87	(\$1,317,575.96)	\$1,659,580.87	
Total			\$6,003,657.21	\$4,912,027.61	(\$3,562,945.96)	\$7,352,738.86	(\$11,867.37)	\$2,440,711.25	\$3,594,451.65

	<u>Airport Code</u>	<u>Claimed Amount</u>	<u>Total Net Outstanding</u>	<u>Delta to min Outstanding or AIF</u>	<u>Reconciliation</u>
Edmonton Regional Airports Authority	ERAA	YEG	\$355,640.79	\$466,710.40	\$0.01 Matches to AIF
Halifax International Airports Authority	HIAA	YHZ	\$319,435.80	\$319,435.80	- Matches to Net Outstanding
Vancouver Airport Authority	VAA	YVR	\$1,110,231.54	\$1,101,532.07	\$8,699.47 Post-Filing Overpayment
Winnipeg Airports Authority Inc.	WAA	YWG	\$282,895.00	\$331,163.94	- Matches to AIF
Calgary Airport Authority	CAA	YYC	\$2,031,140.16	\$3,462,448.42	- Matches to AIF
Greater Toronto Airport Authority	GTAA	YYZ	\$1,659,580.87	\$1,659,580.87	- Matches to Net Outstanding
Total		\$5,758,924.16	\$7,340,871.50	\$8,699.48	

This is **Exhibit "O"** to the Affidavit of Michael Woodward
sworn before me this 31st day of May 2024.



Notary Public/Commissioner for Oaths in and for Alberta

ASHLEY ELIZABETH LIGHT
Student-at-Law



February 22, 2024

Edmonton Regional Airports Authority
1, 1000 Airport Road
Edmonton International Airport, AB, T9E 0V3

Re: Lynx Air Holdings Corporation and 1263343 Alberta Inc. dba as Lynx Air (collectively, "Lynx Air" or the "Applicants")

Dear Edmonton Regional Airports Authority

”

On February 22, 2024 (the "**Filing Date**"), the Applicants sought and obtained an initial order (the "**Initial Order**") under the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "**CCA**") from the Court of King's Bench of Alberta (the "**Court**"). The Initial Order provides, among other things, a stay of proceedings until and including March 4, 2024 (the "**Stay Period**") which may be extended by the Court from time to time. Pursuant to the Initial Order, FTI Consulting Canada Inc. was appointed as monitor (the "**Monitor**") of the Applicants. A copy of the Initial Order and other publicly available materials filed in connection with the CCA proceedings may be obtained on the Monitor's website at <http://cfcanada.fticonsulting.com/lynxair> or on request from the Monitor by calling 1-833-738-7742 or emailing lynxair@fticonsulting.com. The Applicants will continue operations pursuant to the terms of the Initial Order until midnight Mountain Time on February 25, 2024.

We set out in this letter the terms on which Lynx Air agrees to provide Edmonton Regional Airports Authority ("Edmonton Regional Airports Authority." or the "**Supplier**") with advance payments in the amount of CAD\$3,786 (the "**Advance Payments**") in respect of goods and/or services provided to Lynx Air from and after the Filing Date, and to obtain your agreement to those terms.

The Advance Payments that you are entitled to relate to our planned and flown schedule from Thursday February 22, 2024, to Sunday February 25, 2024. That schedule's impact on you as the Supplier includes the flights and dollar amounts as set out in Schedule "**A**". To the extent there are any over or under-payments related to the below schedule as a result of service, price, or FX rate, the Company is authorized to either collect back from you or pay the balance on Monday February 26.

Advance Payments will be made on the express condition that you agree (i) not to allocate, set-off or otherwise apply the Advance Payments paid by Lynx Air to you after the Filing Date to any debts owing to you by Lynx Air for goods and/or services provided to Lynx Air prior to the Filing Date, and (ii) you agree to immediately ship or supply the goods or services to which the Advance Payments correspond without the requirement of any other payment or condition, and on the same terms and conditions as those goods or services were previously provided.



In the event that Lynx Air no longer requires services from the Supplier, Lynx Air will advise the Supplier, and the Supplier irrevocably agrees to return any unapplied balance of Advance Payments to Lynx Air.

If you agree to these terms relating to the treatment of the Advance Payments, please sign and return a copy of this letter to indicate your agreement.

Thank you for your consideration of this matter.

Yours truly,

Mike Woodward
Chief Financial Officer

cc: FTI Consulting Canada Inc., in its capacity as Monitor of the Applicants, and not in its personal or corporate capacity

Terms set out in this letter agreed to on February [.] ____, 2024

Edmonton Regional Airports Authority

By:

Authorized Signatory

Name:
Position:

Schedule A



Date	Flight Number - Sector	Departure Time	Flight Path	Terminal (C\$)	Terminal Vendor
February 22, 2024	136 - YYZYEG	09:20 PM	YYZYEG		Edmonton Regional Airports Authority
February 23, 2024	520 - YHZYYZYEG	09:20 PM	YYZYEG		Edmonton Regional Airports Authority
February 25, 2024	136 - YYZYEG	09:20 PM	YYZYEG		Edmonton Regional Airports Authority
Total (C\$)				\$3,786	
Foreign Exchange Rate				1.3500	
Total (US\$)				\$2,804	



February 22, 2024

Vancouver Airport Authority
PO Box 44638
YVR Domestic Terminal RPO
Richmond, BC, V7B 1W2

Re: Lynx Air Holdings Corporation and 1263343 Alberta Inc. dba as Lynx Air (collectively, "Lynx Air" or the "Applicants")

Dear Vancouver Airport Authority.,

On February 22, 2024 (the "**Filing Date**"), the Applicants sought and obtained an initial order (the "**Initial Order**") under the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "**CCA**") from the Court of King's Bench of Alberta (the "**Court**"). The Initial Order provides, among other things, a stay of proceedings until and including March 4, 2024 (the "**Stay Period**") which may be extended by the Court from time to time. Pursuant to the Initial Order, FTI Consulting Canada Inc. was appointed as monitor (the "**Monitor**") of the Applicants. A copy of the Initial Order and other publicly available materials filed in connection with the CCA proceedings may be obtained on the Monitor's website at <http://cfcanada.fticonsulting.com/lynxair> or on request from the Monitor by calling 1-833-738-7742 or emailing lynxair@fticonsulting.com. The Applicants will continue operations pursuant to the terms of the Initial Order until midnight Mountain Time on February 25, 2024.

We set out in this letter the terms on which Lynx Air agrees to provide Vancouver Airport Authority ("Vancouver Airport Authority." or the "**Supplier**") with advance payments in the amount of CAD\$7,063.42 (the "**Advance Payments**") in respect of goods and/or services provided to Lynx Air from and after the Filing Date, and to obtain your agreement to those terms.

The Advance Payments that you are entitled to relate to our planned and flown schedule from Thursday February 22, 2024, to Sunday February 25, 2024. That schedule's impact on you as the Supplier includes the flights and dollar amounts as set out in Schedule "**A**". To the extent there are any over or under-payments related to the below schedule as a result of service, price, or FX rate, the Company is authorized to either collect back from you or pay the balance on Monday February 26.

Advance Payments will be made on the express condition that you agree (i) not to allocate, set-off or otherwise apply the Advance Payments paid by Lynx Air to you after the Filing Date to any debts owing to you by Lynx Air for goods and/or services provided to Lynx Air prior to the Filing Date, and (ii) you agree to immediately ship or supply the goods or services to which the Advance Payments correspond without the requirement of any other payment or condition, and on the same terms and conditions as those goods or services were previously provided.



In the event that Lynx Air no longer requires services from the Supplier, Lynx Air will advise the Supplier, and the Supplier irrevocably agrees to return any unapplied balance of Advance Payments to Lynx Air.

If you agree to these terms relating to the treatment of the Advance Payments, please sign and return a copy of this letter to indicate your agreement.

Thank you for your consideration of this matter.

Yours truly,

Mike Woodward
Chief Financial Officer

cc: FTI Consulting Canada Inc., in its capacity as Monitor of the Applicants, and not in its personal or corporate capacity

Terms set out in this letter agreed to on February [.] ____, 2024

Vancouver Airport Authority

By:

Authorized Signatory

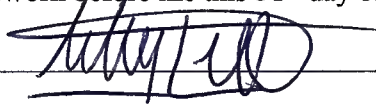
Name:
Position:

Schedule A



Date	Flight Number - Sector	Departure Time	Flight Path	Terminal (C\$)	Terminal Vendor
February 22, 2024	112 - YYZYVR	09:00 AM	YYZYVR		Vancouver Airport Authority
February 22, 2024	104 - YYCYVR	12:00 PM	YYCYVR		Vancouver Airport Authority
February 22, 2024	166 - YULYVR	05:45 PM	YULYVR		Vancouver Airport Authority
February 22, 2024	106 - YYCYVR	06:55 PM	YYCYVR		Vancouver Airport Authority
February 22, 2024	114 - YYZYVR	08:00 PM	YYZYVR		Vancouver Airport Authority
February 23, 2024	166 - YULYVR	05:45 PM	YULYVR		Vancouver Airport Authority
February 23, 2024	106 - YYCYVR	07:10 PM	YYCYVR		Vancouver Airport Authority
February 23, 2024	104 - YYCYVR	05:00 PM	YYCYVR		Vancouver Airport Authority
February 23, 2024	114 - YYZYVR	08:00 PM	YYZYVR		Vancouver Airport Authority
February 24, 2024	746 - MCOYVR	06:20 PM	MCOYVR		Vancouver Airport Authority
February 24, 2024	100 - YYCYVR	09:00 AM	YYCYVR		Vancouver Airport Authority
February 24, 2024	114 - YYZYVR	08:00 PM	YYZYVR		Vancouver Airport Authority
February 25, 2024	114 - YYZYVR	08:00 PM	YYZYVR		Vancouver Airport Authority
February 25, 2024	112 - YYZYVR	07:55 AM	YYZYVR		Vancouver Airport Authority
Total (C\$)				\$7,063	
Foreign Exchange Rate				1.3500	
Total (US\$)				\$5,232	

This is **Exhibit "P"** to the Affidavit of Michael Woodward
sworn before me this 31st day of May 2024.



Notary Public/Commissioner for Oaths in and for Alberta

ASHLEY ELIZABETH LIGHT
Student-at-Law

Schedule A



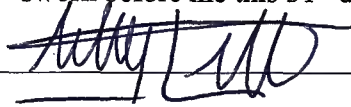
Date	Flight Number - Sector	Departure Time	Flight Path	Total (C\$)	Vendor	AIF
February 22, 2024	112 - YYZYVR	09:00 AM	YYZYVR	█	Vancouver Airport Authority	
February 22, 2024	104 - YYCYVR	12:00 PM	YYCYVR	█	Vancouver Airport Authority	
February 22, 2024	106 - YULYVR	05:45 PM	YULYVR	█	Vancouver Airport Authority	
February 22, 2024	106 - YYCYVR	06:55 PM	YYCYVR	█	Vancouver Airport Authority	
February 22, 2024	114 - YYZYVR	08:00 PM	YYZYVR	█	Vancouver Airport Authority	
February 23, 2024	106 - YYCYVR	07:10 PM	YYCYVR	█	Vancouver Airport Authority	
February 23, 2024	104 - YYCYVR	05:00 PM	YYCYVR	█	Vancouver Airport Authority	
February 23, 2024	114 - YYZYVR	08:00 PM	YYZYVR	█	Vancouver Airport Authority	
February 24, 2024	100 - YYCYVR	09:00 AM	YYCYVR	█	Vancouver Airport Authority	
February 24, 2024	114 - YYZYVR	08:00 PM	YYZYVR	█	Vancouver Airport Authority	
February 25, 2024	114 - YYZYVR	08:00 PM	YYZYVR	█	Vancouver Airport Authority	
February 25, 2024	112 - YYZYVR	07:55 AM	YYZYVR	█	Vancouver Airport Authority	
February 22, 2024	185 - YVRYUL	08:55 AM	YVRYUL	█	Vancouver Airport Authority	25
February 22, 2024	113 - YVRYYZ	12:25 PM	YVRYYZ	█	Vancouver Airport Authority	25
February 22, 2024	105 - YVRYYC	01:30 PM	YVRYYC	█	Vancouver Airport Authority	25
February 22, 2024	107 - YVRYYC	08:30 PM	YVRYYC	█	Vancouver Airport Authority	25
February 22, 2024	115 - YVRYYZ	11:30 PM	YVRYYZ	█	Vancouver Airport Authority	25
February 23, 2024	105 - YVRYYC	06:30 PM	YVRYYC	█	Vancouver Airport Authority	25
February 23, 2024	107 - YVRYYC	08:45 PM	YVRYYC	█	Vancouver Airport Authority	25
February 23, 2024	115 - YVRYYZ	11:30 PM	YVRYYZ	█	Vancouver Airport Authority	25
February 24, 2024	101 - YVRYYC	10:35 AM	YVRYYC	█	Vancouver Airport Authority	25
February 24, 2024	115 - YVRYYZ	11:30 PM	YVRYYZ	█	Vancouver Airport Authority	25
February 25, 2024	107 - YVRYYC	08:30 PM	YVRYYC	█	Vancouver Airport Authority	25
February 25, 2024	2040 - YVRYYC	11:30 PM	YVRYYC	█	Vancouver Airport Authority	25
February 25, 2024	2042 - YVRYYC	11:30 AM	YVRYYC	█	Vancouver Airport Authority	25
Total (C\$)				\$58,236		
Foreign Exchange Rate				1.3500		
Total (US\$)				\$43,138		

Schedule A



Date	Flight Number - Sector	Departure Time	Flight Path	Total (C\$)	Vendor
February 22, 2024	136 - YYZYEG	09:20 PM	YYZYEG	█	Edmonton Regional Airports Authority
February 23, 2024	520 - YHZYYZYEG	09:20 PM	YYZYEG	█	Edmonton Regional Airports Authority
February 25, 2024	136 - YYZYEG	09:20 PM	YYZYEG	█	Edmonton Regional Airports Authority
February 22, 2024	145 - YEGYYZ	12:50 AM	YEGYYZ	█	Edmonton Regional Airports Authority
February 23, 2024	145 - YEGYYZ	12:50 AM	YEGYYZ	█	Edmonton Regional Airports Authority
February 24, 2024	145 - YEGYYZ	12:50 AM	YEGYYZ	█	Edmonton Regional Airports Authority
February 28, 2024	2044 - YEGYYC	1:00AM	YEGYYC	█	Edmonton Regional Airports Authority
Total (C\$)				\$27,061	
Foreign Exchange Rate				1.3500	
Total (US\$)				\$20,045	

This is **Exhibit "Q"** to the Affidavit of Michael Woodward
sworn before me this 31st day of May 2024.

A handwritten signature in black ink, appearing to read 'Ashley Light', written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

ASHLEY ELIZABETH LIGHT
Student-at-Law

February 28, 2024

VIA EMAIL (rvandemosselaer@osler.com)

Osler, Hoskin & Harcourt LLP
Suite 2700, Brookfield Place
225 – 6th Avenue SW
Calgary, AB T2P 1N2

Attention: Randal Van de Mosselaer

Re: Lynx Air Holdings Corporation and 1263343 Alberta Inc., dba Lynx Air (collectively "Lynx Air") Companies' Creditors Arrangement Act ("CCAA") Proceedings and ATB Financial's Release of Letter of Credit Funds to Greater Toronto Airport Authority

Ryan Zahara
Direct Line: (403) 693-5420
E-mail: rzahara@mltaikins.com

Regie Agcaoili
Legal Assistant
Direct Line: (403) 693-5402
E-mail: ragcaoili@mltaikins.com

We are counsel to ATB Financial ("**ATB**").

We write to advise that ATB has received a request from the Greater Toronto Airport Authority (the "**GTAA**") dated February 23, 2024 advising that it is entitled to receive payment under an Irrevocable Standby Letter of Credit No. 356141, issued April 12, 2022 in the full sum of \$3,100,000, as amended, for the account of Lynx Air (the "**Letter of Credit**").

Copies of this correspondence and the Letter of Credit, as amended, are enclosed to this correspondence.

The GTAA has instructed ATB to immediately transfer the sum of \$3,100,000 to the GTAA via wire transfer payment. We write to confirm that ATB will transfer the full amount of \$3,100,000 to the GTAA by March 1, 2024 at 12:00 p.m.

The Letter of Credit simply requires a demand for ATB to be obligated to make payments under such Letter of Credit. The GTAA has made that demand and ATB is now obligated to make such payment to GTAA. ATB will then proceed to set-off against the cash collateral of Lynx Air that it currently holds to satisfy the obligations paid under the Letter of Credit.

ATB is currently holding cash collateral from Lynx Air to secure a number of Irrevocable Letters of Credit in the total amount of \$4,354,925.61 (the "**Cash Collateral**").

MLT AIKINS

WESTERN CANADA'S LAW FIRM

Please advise by no later than 12:00 p.m. on Thursday, February 29, 2024 if your client has any concerns with ATB's release of funds to GTAA under the Letter of Credit and the set-off against the Cash Collateral as set out above to enable ATB sufficient time to cash the applicable GIC and process the necessary wire payment.

Yours truly,



MLT AIKINS LLP

For: Ryan Zahara